

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

RONALD A. KATZ TECHNOLOGY  
LICENSING, L.P.,

Plaintiff,

v.

TD BANKNORTH INC.; EXPERIAN  
INFORMATION SOLUTIONS, INC.;  
COMERICA INCORPORATED; COMERICA  
BANK & TRUST, NATIONAL ASSOCIATION;  
COMERICA SECURITIES, INC.; CERIDIAN  
CORPORATION; COMDATA CORPORATION;  
DILLARD'S, INC.' DILLARD INVESTMENT  
CO., INC.; LASALLE BANK CORPORATION;  
LASALLE BANK NATIONAL ASSOCIATION;  
LASALLE FINANCIAL SERVICES, INC.; ABN  
AMRO MORTGAGE GROUP, INC.,

Defendants.

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C.A. No. 06-544-GMS

**JURY TRIAL DEMANDED**

**NOTICE OF FILING**

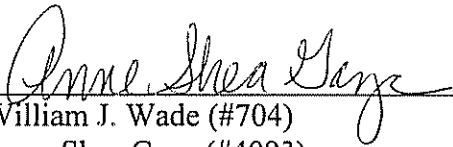
PLEASE TAKE NOTICE that Defendant TD Banknorth, Inc. filed the documents attached as Exhibit 1 before the Judicial Panel on Multidistrict Litigation on November 6, 2006.:

The attached documents are relevant to the following civil actions pending in the District of Delaware before the Honorable Gregory M. Sleet: 06-543-GMS, 06-544-GMS, 06-545-GMS, 06-546-GMS, and 06-547-GMS.

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Dated: November 8, 2006



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**UNITED STATES DISTRICT COURT  
DISTRICT OF DELAWARE**

**CERTIFICATE OF SERVICE**

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# EXHIBIT 1

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

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IN RE KATZ INTERACTIVE CALL  
PROCESSING PATENT LITIGATION

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MDL Docket No. 1816

**RESPONSE OF TD BANKNORTH, INC. IN OPPOSITION TO THE  
MOTION FOR TRANSFER AND CONSOLIDATION OF  
KATZ TECHNOLOGY LICENSING PATENT LITIGATION  
PURSUANT TO 28 U.S.C. § 1407**

TD Banknorth, Inc. (“TD Banknorth”), a defendant in Ronald A. Katz Technology Licensing, L.P. v. TD Banknorth, Inc., et al., No. 1:06-CV-544 (D. Del.), responds to Target Corporation, Target Bank and Target National Bank’s (collectively “Target”) Motion for Transfer and Consolidation of Katz Technology Licensing Patent Litigation Pursuant to 28 U.S.C. § 1407 (the “Motion”) as follows:

1. Admitted.
2. Denied. Plaintiff Ronald A. Katz Technology Licensing, L.P. (“Plaintiff” or “RAKTL”) so alleges in its Complaints (see, e.g., Target’s Exhibits in Support of Motion for Transfer and Consolidation of Katz Licensing Patent Litigation (“Target Exhibits”), Ex. 1, ¶¶ 1, 18), but TD Banknorth lacks sufficient information to form a belief as to the truth of those allegations, and therefore denies them.

3. Admitted in part and denied in part. It is admitted that each of the actions listed on “Schedule A” to the Motion (“the Actions”) involves related patents that list Ronald A. Katz (“Katz”) as the sole named inventor, and which Katz refers to as the “interactive call processing patents.” TD Banknorth denies that these patents may be properly characterized as comprising a “single family.” TD Banknorth further admits that Katz alleges that more than fifty (50) United States patents have issued to Katz for his purported inventions in the interactive call processing field (see, e.g., Target Exhibits, Ex. 1, ¶ 22), including the patents asserted in the Actions.

4. Admitted.

5. Admitted in part; denied in part. TD Banknorth admits that several of the Katz interactive call processing patents were previously asserted against AT&T Corporation and other companies in the United States District Court for the Eastern District of Pennsylvania (“Eastern District of Pennsylvania”) in an action filed by RAKTL in September 1997. A Markman hearing was held in that case in May 1999, and Judge Lowell A. Reed issued a claim construction order in August 1999. The litigation continued after the Markman ruling until settling in November 2000.

Further responding, TD Banknorth denies that only “two courts” have previously had significant experience with Katz’s interactive call processing patents. In fact, three courts have had prior experience with the Katz patents. Target ignores a second action filed by RAKTL in the Eastern District of Pennsylvania in November 2001 against Verizon Communications, Inc., Verizon Wireless Inc. and related entities alleging infringement of a number of the Katz interactive call processing patents (the “Verizon PA action”). The Verizon PA action was

originally assigned to Judge Reed, but was transferred to Judge Clarence C. Newcomer in July 2002. The scheduling order in that case set February 4, 2003 as the discovery cutoff date, with trial to commence on April 1, 2003. The parties in the Verizon PA action came close to completing the Markman claim construction process in December 2002, submitting their joint claim chart to the court as well as their claim construction briefs.<sup>1</sup> The claim construction hearing was never held, however. The case, along with all of the dates in the scheduling order, was stayed for 30 days on January 3, 2003, one month before the close of discovery and three months before the scheduled trial date. The parties settled the Verizon PA action on February 13, 2003.

6. Admitted in part; denied in part. TD Banknorth admits the allegations of this paragraph, except that it denies that the Verizon California case is “closely related” to any of the Actions. The common element among all of these actions is that they allege infringement of one or more of the same patents from the group of Katz interactive call processing patents. The only common factual issues in the cases, therefore, are the validity and enforceability of one or more of the claims of those Katz patents as well as the related legal issue of claim interpretation. The vast majority of the factual issues in the cases, relating to infringement and damages, are unique as to each defendant within each case since each defendant has a unique set of accused products, services, hardware, software, etc.

7. Admitted.

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<sup>1</sup> On December 18, 2002, Judge Newcomer also issued an order granting Verizon Communications, Inc.’s Motion for Summary Judgment of Non-Infringement, on the grounds that Verizon Communications, Inc. was a holding company that did not provide any of the allegedly infringing services. See RAKTL v. Verizon Communications, Inc., 66 U.S.P.Q.2d 1045 (E.D. Pa. 2002)



8. Admitted.

9. Admitted.

10. Admitted. There are currently twenty actions pending in the United States District Court for the Eastern District of Texas (“Eastern District of Texas”) in which infringement of some of the Katz interactive call processing patents has been asserted by RAKTL. Fifteen of these cases<sup>2</sup> are in the Lufkin Division of the Eastern District of Texas and are currently assigned to Judge Ron Clark. Three of the cases<sup>3</sup> are in the Texarkana Division of the Eastern District of Texas and are assigned to Judge David Folsom. The final two cases<sup>4</sup> are in the Marshall Division of the Eastern District of Texas. One has been currently assigned to Judge T. John Ward, and the other is assigned to Judge Folsom.

11. Admitted. There are currently five actions pending in the United States District Court for the District of Delaware in which infringement of some of the Katz interactive call processing patents has been asserted by RAKTL. All of these cases (1:06cv543, 1:06cv544, 1:06cv545, 1:06cv546 and 1:06cv547) are in the Wilmington Division and have been assigned to Judge Gregory M. Sleet.

12. Admitted.

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<sup>2</sup> 9:06cv177, 9:06cv178, 9:06cv191, 9:06cv192, 9:06cv193, 9:06cv194, 9:06cv195, 9:06cv196, 9:06cv197, 9:06cv198, 9:06cv199, 9:06cv200, 9:06cv201, 9:06cv202 and 9:06cv203.

<sup>3</sup> 5:05cv142, 5:06cv182 and 5:06cv188.

<sup>4</sup> 2:06cv334 and 2:06cv335.

13. Admitted in part; denied in part. It is admitted that a number of the same patents from the group of Katz interactive call processing patents have been asserted in many of the Actions. TD Banknorth denies that all of the pending RAKTL actions share a common Katz patent. As shown in Exhibits B and C to the Motion, there is not a single Katz patent that has been asserted in every one of the pending RAKTL actions. If the Discover Financial Services, Inc. case (5:05cv182) is ignored, however, a few of the same Katz patents have been asserted in the remaining actions listed on Schedule A to the Motion.

14. Admitted. It is admitted that a common factual issue among all of the cases listed on Schedule A to the Motion will be the validity and/or enforceability of one or more of the claims in the asserted Katz interactive call processing patents.

15. Admitted in part; denied in part. TD Banknorth admits the averments of this paragraph except denies that no answers have been filed in the twenty-one (21) most recently filed actions. Answers were filed in some of the Eastern District of Texas cases on October 16, 2006. The remaining answers in the Eastern District of Texas cases were filed on October 27, 2006 and November 3, 2006. The answers in the District of Delaware cases were all filed on October 26, 2006.

16. Admitted. TD Banknorth admits that an Amended Docket Control Order was issued by Judge Folsom in the Citibank case (5:05cv142) on May 8, 2006. A copy of this Order is attached as Exhibit A to TD Banknorth, Inc.'s Exhibits filed together with TD Banknorth's Response. Paragraph 38 of the Order sets February 2, 2007 as the deadline by which all dispositive motions, including motions on invalidity and unenforceability, are to be

filed. Paragraph 45 sets May 7, 2007 as the date for the final pretrial conference, with jury selection scheduled to start on May 8, 2007, as set forth in paragraph 46 of the Order.

There are other dates on the Order that are relevant to the instant Motion. Claim construction discovery in the Citibank case was completed on May 29, 2006. (Order, ¶ 17.) Judge Folsom's claim construction order was supposed to issue 15 days after the claim construction hearing. (Id. ¶¶ 24, 25.) The claim construction hearing was held on September 20, 2006, so a ruling was due under this schedule on October 5, 2006. No claim construction order has issued to date, but due to the expedited schedule set in Judge Folsom's Amended Docket Control Order, TD Banknorth expects that a ruling will issue shortly. Preliminary unenforceability contentions with accompanying production of documents are due 40 days after the claim construction ruling. (Id. ¶¶ 27, 28.) Final invalidity contentions are due 50 days after the claim construction ruling. (Id. ¶ 29.) Final unenforceability contentions are due 80 days after the claim construction ruling (id. ¶ 31), which is also the deadline by which all fact discovery must be completed (id. ¶ 32).

17. Admitted. TD Banknorth admits the averments of this paragraph although it expects Judge Folsom's claim construction ruling to issue imminently. Thus, a substantive order should issue shortly in the Citibank case.

18. Admitted.

19. Admitted in part; denied in part. It is admitted that Judge Klausner is experienced with respect to Katz's interactive call processing patents. Indeed, he is the only judge to have issued written opinions with respect to claim construction, validity and infringement of some of the Katz's patents. Judge Reed wrote a claim construction opinion and

Judge Folsom is currently in the process of writing a claim construction opinion. TD Banknorth lacks sufficient information to form a belief as to the truth of the allegation that Judge Klausner is the “most experienced” with respect to Katz’s interactive call center patents, and therefore denies it.

20. Admitted in part; denied in part. It is admitted that the Actions that involve one or more of the same Katz patents can be expected to share factual and legal questions concerning the technology underlying the patents, the scope and content of the prior art, claim construction as well as the validity and enforceability, or lack thereof, of the asserted Katz patents. TD Banknorth denies that infringement is a common factual question in any of the Actions. In fact, the issue of infringement will be unique as to each defendant within each action, since each defendant has a unique set of accused products, services, hardware, software, etc.<sup>5</sup>

21. Denied. TD Banknorth denies that damages issues will present common issues of fact across actions. As with infringement, the issue of damages will be unique as to each defendant within each action. Primarily at issue will be the revenue allegedly generated by the accused products and services, which will involve discovery relating to each individual defendant and its particular accused products and services.

22. Denied. For the reasons set forth in detail in TD Banknorth’s accompanying Memorandum of Law, which is incorporated herein by reference, TD Banknorth denies that consolidation of the Actions is necessary or warranted.

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<sup>5</sup> There is no logical connection between the groupings of defendants in most of the actions listed in Schedule A to the Motion. For example, TD Banknorth is completely unrelated to all of the other defendants in its action.

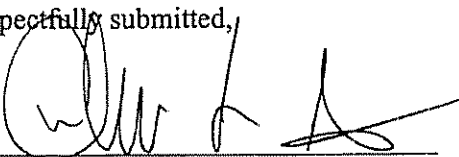
23. Admitted in part; denied in part. TD Banknorth admits that: (1) Judge Klausner is already educated with respect to the technology underlying the Katz interactive call processing patents; (2) the United States District Court for the Central District of California ("Central District of California") is easily accessible; (3) the Central District of California has the resources and judicial expertise to conduct this case; and (4) based on RAKTL's allegations in its complaints, the Central District of California is Katz's home forum. TD Banknorth lacks sufficient information to form a belief as to the truth of the allegation regarding the present location of the attorneys or agents who prosecuted the Katz interactive call processing patents, and therefore denies them. TD Banknorth further denies that transfer to the Central District of California will minimize costs and inconvenience in the Actions or will promote the just and efficient conduct of the Actions. Indeed, as set forth in detail in TD Banknorth's accompanying Memorandum of Law, which is incorporated herein by reference, TD Banknorth believes that transfer to the Central District of California will *not* serve the convenience of the parties and witnesses and will *not* promote the just and efficient conduct of the Actions.

WHEREFORE, for the foregoing reasons and those set forth in the accompanying Memorandum of law, which is incorporated herein by reference, TD Banknorth respectfully request that the MDL Panel issue an order denying the transfer of the Actions to the Central District of California for coordinated or consolidated pretrial proceedings.

Respectfully submitted,

Dated: November 6, 2006

By:

A handwritten signature in black ink, appearing to be "Martin J. Black", written over a horizontal line.

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BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

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IN RE KATZ INTERACTIVE CALL  
PROCESSING PATENT LITIGATION

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MDL Docket No. 1816

**MEMORANDUM OF LAW OF TD BANKNORTH, INC.  
IN OPPOSITION TO THE MOTION FOR TRANSFER AND  
CONSOLIDATION OF KATZ TECHNOLOGY LICENSING  
PATENT LITIGATION PURSUANT TO 28 U.S.C. § 1407**

TD Banknorth, Inc. (“TD Banknorth”), a defendant in Ronald A. Katz Technology Licensing, L.P. v. TD Banknorth, Inc., et al., No. 1:06-CV-544 (D. Del.), submits this memorandum in opposition to Target Corporation, Target Bank and Target National Bank’s (collectively “Target”) Motion for Transfer and Consolidation of Katz Technology Licensing Patent Litigation Pursuant to 28 U.S.C. § 1407 (the “Motion”).

Consolidation of the patent infringement litigations filed by Ronald A. Katz Technology Licensing, L.P. (“Plaintiff” or “RAKTL”) in the United States District Court for the Eastern District of Texas and the United States District Court for the District of Delaware would not serve either of the dual statutory purposes required for transfer: (1) convenience of the parties and witnesses and (2) promotion of the just and efficient conduct of the actions. 28 U.S.C. § 1407(a).

TD Banknorth is a bank holding company with its headquarters in Portland, Maine and operates predominantly in the northeastern region of the United States. Like many of the defendants, TD Banknorth is a Delaware corporation. Delaware is a much more convenient forum for TD Banknorth than California. Mr. Katz, the principal of RATKL, who apparently lives in California, selected Delaware and Texas for the litigation and obviously finds litigation there to be convenient as well. Target's motion is a rather transparent attempt to move the situs of its litigation with RATKL from Texas to California. Whatever the merits of that proposition, Banknorth strongly opposes the transfer of the Delaware actions, as the convenience of the parties and witnesses is best served by allowing the Delaware cases to proceed in Delaware.

First, the predominant reason offered for consolidating pretrial proceedings in patent cases is that validity and enforceability present common issues for all defendants. The MDL Panel has repeatedly denied consolidation of a group of patent infringement cases when trial was imminent in one of the cases. Here, one of the cases in Texas that Target seeks to consolidate is scheduled for jury selection on May 8, 2007. It would hardly be efficient to move that case to California now, when an unfavorable judgment for Katz in the Texas litigation on validity or enforceability would end all of these cases.

Second, the focus of the discovery here will be on defendant-specific issues. RAKTL has sued banks, cable companies, retailers and all manner of other defendants. RAKTL has asserted different combinations of patent claims against different defendants, and there is nothing to be gained from consolidating all of the actions. Moreover, much of the validity discovery is behind us. While validity will be disputed, the parties have years of prior validity



discovery to rely on, reaching back to 1990. The pretrial proceedings here will be dominated by the individual issues raised by each defendant's particular circumstances.

Third, there is no reason to believe that transferring all of the cases to California would promote judicial efficiency. The Delaware cases are effectively consolidated already in front of Judge Sleet, a judge who has significant experience with patent infringement cases as well as multidistrict litigation. There would be no advantage with respect to judicial administration to move those cases to California.

### **FACTUAL BACKGROUND**

#### **I. TD Banknorth**

TD Banknorth is one of thirteen defendants in one of the five recent actions filed by RAKTL in the United States District Court for the District of Delaware ("District of Delaware"). Ronald A. Katz Technology Licensing, L.P. v. TD Banknorth, Inc., et al., No. 1:06-CV-544 (D. Del.). None of the other defendants in the action against TD Banknorth are related in any way to TD Banknorth, which is a Delaware corporation with its principal place of business in Portland, Maine. TD Banknorth is a majority-owned subsidiary of The Toronto Dominion Bank, a Canadian corporation with its principal place of business in Toronto, Canada. The banking operations of certain of TD Banknorth's subsidiaries that are at issue in the litigation are all located in the Northeast of the United States – i.e., Maine, New Hampshire, New York, Vermont, Massachusetts, New Jersey, Pennsylvania and Connecticut. (RAKTL Complaint, attached as Exhibit B to TD Banknorth, Inc.'s Exhibits ("TD Banknorth Exhibits") filed together with TD Banknorth's Memorandum, ¶ 55.)

None of TD Banknorth's relevant activities took place in California. None of the documents, or witnesses with relevant knowledge, from TD Banknorth's subsidiaries are located in California (or indeed outside of the Northeast).

## **II. There Has Been a Vast Amount of Prior Litigation Over the Katz Patents**

This is not the first or even the third time that the validity of the Katz patents has been litigated. Accordingly, the vast majority of validity discovery is behind, not ahead of the parties.

### **A. RAKTL v. AT&T Corp. et al.**

In July 1997, RAKTL filed suit against AT&T Corporation and several other entities in the United States District Court for the Eastern District of Pennsylvania ("Eastern District of Pennsylvania") alleging infringement of several patents in the field of interactive call processing technology. RAKTL claims to own more than fifty (50) patents for purported inventions in this field. See, e.g., Target Exhibits, Ex. 1, ¶ 22. The patents at issue in the AT&T action are the same or related to the patents that have been asserted by RAKTL in the actions listed in "Schedule A" to Target's Motion ("the Actions") that Target now asks the MDL Panel to consolidate. The AT&T case was dismissed by stipulation of the parties in November 2000, more than three years after it was filed.

### **B. RAKTL v. Verizon Communications, Inc.. et al.**

Subsequently, in November 2001, RAKTL filed suit in the Eastern District of Pennsylvania against Verizon Communications, Inc., Verizon Wireless Inc. and related entities, again alleging infringement of some of the Katz interactive call processing patents. As with the AT&T case, the patents at issue in the Verizon Communications case are the same or related to

the patents that have been asserted by RAKTL in the actions Target seeks to consolidate in its Motion.

The scheduling order in the Verizon Communications action set February 4, 2003 as the discovery cutoff date, with trial to commence on April 1, 2003. Verizon Communications Docket, TD Banknorth Exhibits, Ex. C, Entry No. 79. The parties came close to completing the Markman claim construction process in December 2002, submitting their joint claim chart to the court as well as their claim construction briefs. The claim construction hearing was never held, however. The parties settled the Verizon PA action on February 13, 2003, only one month prior to the scheduled close of discovery.

**C. Verizon California, Inc. v. RAKTL**

In November 2001, nine days after the filing of the Verizon Communications litigation by RAKTL, Verizon California, Inc. (“Verizon CA”) filed a declaratory judgment action in the Central District of CA asserting the invalidity of a number of the Katz patents. RAKTL counterclaimed asserting infringement of the patents by Verizon CA. The patents at issue in the Verizon CA case are the same or related to the patents that have been asserted by RAKTL in the actions Target seeks to consolidate in its Motion.

The original scheduling order for the case set April 18, 2003 as the discovery cutoff date. Target Exhibits, Ex. 3, Entry Nos. 86, 88, 150. The end of fact discovery was later moved to May 30, 2003 (id., Entry No. 233). The parties also exchanged validity contentions, expert reports and completed expert discovery by May 10, 2004. Id., Entry Nos. 760, 761. The litigation settled on July 12, 2004 (id., Entry No. 960), slightly more than one month before the scheduled August 31, 2004 trial date. Id., Entry No. 635.

**D. RAKTL v. Citibank, N.A. et al.**

In July 2005, a year after settling the Verizon CA litigation, RAKTL again asserted some of the Katz interactive call processing patents again by filed suit against Citibank, N.A. and a group of other entities in the United States District Court for the Eastern District of Texas (“Eastern District of Texas”) alleging infringement of those patents. The patents at issue in the Citibank case are the same or related to the patents that have been asserted by RAKTL in the actions Target seeks to consolidate in its Motion. Indeed, Target seeks to consolidate the Citibank case along with all of the new cases filed by RAKTL in the last several months.

The Citibank action is assigned to Judge David Folsom. His Amended Docket Control Order, issued on May 8, 2006, sets February 2, 2007 as the deadline by which all dispositive motions, including motions on invalidity and unenforceability, are to be filed. (TD Banknorth Exhibits, Ex. A, ¶ 38.) The Order also sets May 7, 2007 as the date for the final pretrial conference, with jury selection scheduled to start on May 8, 2007. (*Id.* ¶¶ 45, 46.)

Claim construction discovery in the Citibank case was completed on May 29, 2006. (*Id.*, ¶ 17.) The deadlines for any remaining discovery are tied to the issuance of Judge Folsom’s claim construction ruling, which is expected imminently<sup>1</sup>. For example, preliminary unenforceability contentions with accompanying production of documents are due 40 days after the claim construction ruling. (*Id.* ¶¶ 27, 28.) Final invalidity contentions are due 50 days after the claim construction ruling. (*Id.* ¶ 29.) Final unenforceability contentions are due 80 days

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<sup>1</sup> Judge Folsom’s claim construction order was supposed to issue 15 days after the claim construction hearing, which was held on September 20 (*id.* ¶¶ 24, 25.) – i.e., on October 5, 2006. No claim construction order has issued to date, but due to the expedited schedule set in Judge Folsom’s Amended Docket Control Order, TD Banknorth expects that a ruling will issue shortly.

after the claim construction ruling (*id.* ¶ 31), which is also the deadline by which all fact discovery must be completed (*id.* ¶ 32)

#### **E. Other Prior Actions Involving the Katz Patents**

In addition to the actions described above, the Katz patents were also asserted in several older actions. Although TD Banknorth has not yet seen dockets or any of the discovery materials produced in those actions, it is likely that some discovery with respect to the validity and/or enforceability of the Katz patents also took place in these actions. For example:

- On October 9, 1990 First Data brought a suit against 900 Million, Inc. and others in the Central District of CA alleging infringement of three of the Katz patents. The defendants in that case filed a counterclaim alleging invalidity and unenforceability of those patents.
- On October 24, 1990, West Interactive Corp. (“West”) brought a declaratory judgment action against First Data Resources, Inc. (“First Data”), apparently a prior owner of some of the Katz patents, claiming that three of the Katz patents were invalid on several theories including prior use and prior art. In a related action, First Data filed an infringement action against West and Fantasy Sports Concepts, Inc. in the Central District of CA on August 20, 1991 asserting infringement of the same three Katz patents. The defendants in that action filed a counterclaim alleging the invalidity of the Katz patents.<sup>2</sup>
- Finally, RAKTL filed an action on February 9, 1999 in the United States District Court for the Northern District of California against Micro Voice Applications, Inc. and others

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<sup>2</sup> Approximately 130,000 pages of the discovery produced in this litigation was later produced by Katz in the Verizon CA case. *See* Verizon CA Docket Entry No. 710 (TD Banknorth Exhibits, Ex. D).

asserting infringement of eight of the Katz patents. The defendants in this action also claimed that the Katz patents were invalid and/or unenforceable.

### **ARGUMENT**

#### **I. Pretrial Consolidation Is Warranted Only When The Statutory Purposes of 28 U.S.C. § 1407(a) Are Served**

Section 1407(a) authorizes the MDL Panel to consolidate cases for pretrial proceedings only when the panel determines “that transfers for such proceedings will be for the convenience of parties and witnesses and will promote the just and efficient conduct of such actions.” 28 U.S.C. § 1407(a). When the MDL Panel determines that these statutory purposes would not be served by pretrial consolidation, motions for transfer will be denied. See, e.g., In re Cable Tie Patent Litigation, 487 F. Supp. 1351, 1353 (J.P.M.L. 1980) (denying motion to transfer where consolidation “would not necessarily serve the convenience of the parties and witnesses or promote the just and efficient conduct of the litigation”). Target’s Motion should be denied since pretrial consolidation of the patent infringement actions filed by RAKTL would not serve either of the dual statutory purposes of (1) convenience of the parties and witnesses and (2) promotion of the just and efficient conduct of the actions.

#### **II. Pretrial Consolidation Of The RAKTL Actions Would Not Promote The Just And Efficient Conduct Of The Actions**

Target, a Minnesota corporation based in Minneapolis and a defendant in one of the recent patent infringement actions filed by RAKTL in the Eastern District of Texas, seeks to consolidate patent infringement actions against 169 defendants pending in twenty (20) cases in the Eastern District of Texas and five cases in the District of Delaware. Eighty-eight (88) of those defendants are in the Delaware actions and the remaining eighty-one (81) are in the Texas

actions.<sup>3</sup> Target did not consult with TD Banknorth prior to filing its Motion. Undoubtedly, Target would like to use the MDL process to obtain what it believes is a more favorable jurisdiction than the one selected by RATKL. That is not a reason for uprooting all of these actions and transferring them to California.

**A. Trial In The Citibank Action Is Imminent**

Trial in RAKTL v. Citibank et al., No. 5:50cv142 (E.D. TX) is scheduled to begin on May 8, 2007. Moreover, all dispositive motions, including motions on invalidity and unenforceability, must be filed in the Citibank case by February 2, 2007. It makes no sense to transfer the Texas cases to California for pretrial consolidation. Indeed, pretrial proceedings in the Citibank case are virtually complete. The MDL Panel has “consistently denied transfer of actions in patent litigation where one of the actions was proceeding expeditiously toward trial on the common issue of validity.” In Re Bourns Patent Litigation, 385 F. Supp. at 1261; see also In re Cable Tie Patent Litigation, 487 F. Supp. at 1354 (denying transfer where actions were nearing trial); In Re Lehman Equipment Company Patent Infringement Litigation, 360 F. Supp. at 1403 (denying transfer where motion for summary judgment on validity issue was “ripe for decision”); In Re Disposable Diaper Patent Validity Litigation, 362 F. Supp. 567, 568 (J.P.M.L. 1973) (denying transfer because of the imminence of trial in one pending action); In re Molinaro/Catanzaro Patent Litigation, 402 F. Supp. at 1407 (denying transfer where trial on the common patent validity issue in one or more of the actions is imminent). A finding that one or

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<sup>3</sup> A chart listing all of the defendants as well as their state of incorporation and principal place of business is attached for the convenience of the Panel as TD Banknorth Exhibits, Ex. E. The above numbers do not include the six Citibank entities that have settled out of the RAKTL v. Citibank, NA et al., No. 5:05cv142 (E.D. TX) action.

more of the Katz interactive call processing patents is invalid could end all of the actions in view of the likely applicability of the collateral estoppel doctrine. See In re Molinaro/Catanzaro Patent Litigation, 402 F. Supp. at 1407. Given the imminence of the Citibank trial, none of the RAKTL patent infringement actions should be consolidated.

**B. Further Consolidation of the Actions Will Not Promote Efficiency**

The five RAKTL cases pending in Delaware, involving eighty-eight (88) (or 52.1%) of the 169 total defendants, are all assigned to Judge Gregory M. Sleet. Judge Sleet has significant experience with patent infringement litigation, as do many of the judges in the District of Delaware. Judge Sleet also has experience with multidistrict litigation, having been assigned cases by the MDL Panel in the past. For all effective purposes, the RAKTL cases pending in the District of Delaware are already consolidated for pretrial purposes. Moving all of the cases to California would provide no advantage to these cases as far as judicial administration. To the contrary, it will only confuse matters given the multiplicity of claims, patents and issues RAKTL is asserting against the diverse defense group.

The most common reason for consolidation in patent cases is the desire to coordinate discovery on the common issue of patent validity. As this Panel has recognized, “[t]he issue of patent validity generally is the most significant common aspect of discovery in multidistrict patent litigation.” In Re Western Electric Co., Inc. Semiconductor Patent Litigation, 436 F. Supp. 404, 406 (J.P.M.L. 1977). Accordingly, when discovery on the common issue of validity (and the related issue of enforceability) has significantly advanced or has been completed in one of the patent infringement actions at issue, the Panel has consistently denied consolidation of the actions. See, e.g., Id.; In Re Lehman Equipment Company Patent



Infringement Litigation, 360 F. Supp. 1402 (J.P.M.L. 1973); In Re Bourns Patent Litigation, 385 F. Supp. 1260 (J.P.M.L. 1974). Indeed, when discovery is completed with respect to the common validity/enforceability issue, the Panel will remand previously consolidated cases to their jurisdictions of origin since there are no more common issues that would benefit from pretrial consolidation. See In re Molinaro/Catanzaro Patent Litigation, 402 F. Supp. 1404, 1405 (J.P.M.L. 1975) (“since pretrial proceedings on the common validity issue have been concluded in the transferee court, we find that remand of all remaining transferred actions to their respective transferor courts is appropriate”).

Here, as described in detail above, significant discovery has already taken place in prior litigations with respect to the invalidity and unenforceability of the Katz interactive call processing patents. Fact discovery was completed in the Verizon California litigation and will be completed in the Citibank litigation within the next several months. The parties in the more recent Texas and Delaware cases will have a tremendous amount of validity discovery to rely upon, and accordingly, the burden on the court to manage discovery relating to validity will be minimal here.

In contrast, managing the infringement and damages issues, which differ from company to company is a mammoth task. TD BankNorth has been lumped in one complaint with a number of other companies that have very different businesses and are likely to use vastly divergent technology to handle the provision of automated call processing. Other defendants in the Delaware cases include cable companies, credit reporting agencies, mortgage brokers, electric energy providers, supermarkets, fashion apparel and home furnishings retailers, and many others. Furthermore, issues relating to the operation of each of the defendants’ call

centers, as well as issues such as notice, willfulness and damages are all individualized. It is for this reason that the MDL Panel has remanded cases to the transferee courts once validity and enforceability discovery has been concluded. See In re Molinaro/Catanzaro Patent Litigation, 402 F. Supp. 1404, 1405 (J.P.M.L. 1975).

Target makes broad arguments that consolidation will promote judicial efficiency, but that is simply not the case. Given the advanced state of discovery on the common issues of validity/enforceability, and the unique fact that this dispute involving the Katz patents have seen 16 years of validity litigation already, an MDL consolidation simply comes too late in the game. There is no need to consolidate the RAKTL actions for pretrial purposes.<sup>4</sup>

### **III. Consolidation Will Not Serve The Convenience Of The Parties Or Witnesses**

Consolidation under section 1407 is only warranted where the “convenience of parties and witnesses” will be served. 28 U.S.C. § 1407(a). Target has made no showing that the convenience of parties and witnesses calls for a transfer to California.

The inventor apparently resides in Los Angeles, but that is a thin reed on which to rest a request to transfer the cases of 169 defendants. The inventor is required, in any case, to travel to Delaware or Texas because he authorized the filing of suit in those jurisdictions. Target is a Minnesota corporation, with its principal place of business in Minneapolis. Nothing recommends California as a jurisdiction that would be especially convenient for the parties or witnesses.

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<sup>4</sup> If there is any limited, targeted discovery with respect to validity/enforceability that still needs to be taken, the parties to the various actions can coordinate to minimize the possibility of duplicative or unreasonable discovery. See, e.g. In Re Cable Tie Patent Litigation, 487 F. Supp. 1351, 1354 (J.P.M.L. 1980) (discussing alternatives to section 1407 transfer where significant discovery has already taken place in two of the actions sought to be consolidated).

In contrast, all of TD Banknorth's documents and fact witnesses with respect to the issues of infringement and damages are located in the Northeast of the United States. Moreover, TD Banknorth itself is located in Portland, Maine. TD Banknorth and its witnesses would be extremely inconvenienced if the case against TD Banknorth currently pending in the District of Delaware was transferred to California. Indeed, keeping the action in Delaware will best serve the convenience of the parties and witnesses with respect to TD Banknorth.

**IV. If The Panel Consolidates The RAKTL Cases, Which It Should Not, The Cases Should Be Consolidated In The District Of Delaware**

109 of the 169 defendants (or 64.5%) in the pending RAKTL actions in both the District of Delaware and the Eastern District of Texas are Delaware corporations. Delaware companies cannot reasonably oppose consolidation in Delaware. Consolidation in California will not best serve the convenience of the parties and witnesses and promote the just and efficient conduct of the actions.<sup>5</sup> The District of Delaware, on the other hand, is "neutral ground" in a state in which more than two-thirds of the defendants are incorporated. The court also has significant experience with patent infringement litigation. Accordingly, if the Panel decides to consolidate the RAKTL actions currently pending in the Eastern District of Texas and the District of Delaware, TD Banknorth would only support consolidation in the District of Delaware.

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<sup>5</sup> Nor would consolidation in the Eastern District of Texas, the plaintiff's chosen forum of choice. TD Banknorth believes that it was not sued in the Eastern District of Texas (as well as the other defendants in the Delaware actions) because RAKTL could not successfully assert personal jurisdiction over TD Banknorth in that forum. RAKTL should not be allowed to defeat jurisdictional requirements against the Delaware defendants through consolidation.

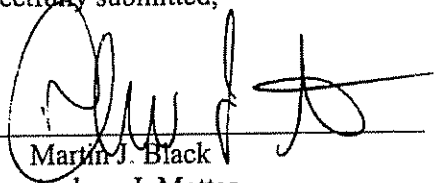
**CONCLUSION**

For the foregoing reasons, TD Banknorth respectfully requests that the MDL Panel issue an order denying the transfer of this litigation to the United States District Court for the Central District of California for coordinated or consolidated pretrial proceedings.

Respectfully submitted,

Dated: November 6, 2006

By:

A handwritten signature in black ink, appearing to read "Martin J. Black", is written over a horizontal line.

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Attorneys for TD Banknorth, Inc.

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

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IN RE KATZ INTERACTIVE CALL  
PROCESSING PATENT LITIGATION

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:  
MDL Docket No. 1816

**EXHIBITS OF TD BANKNORTH, INC. IN OPPOSITION TO THE  
MOTION FOR TRANSFER AND CONSOLIDATION OF  
KATZ TECHNOLOGY LICENSING PATENT LITIGATION  
PURSUANT TO 28 U.S.C. § 1407**

EXHIBIT

- |   |                                                                                                                             |
|---|-----------------------------------------------------------------------------------------------------------------------------|
| A | Scheduling Order in <u>Citibank</u> action                                                                                  |
| B | RAKTL Complaint against TD Banknorth et al.                                                                                 |
| C | Docket from Verizon Communications, Inc. action                                                                             |
| D | Verizon CA Docket Entry No. 710                                                                                             |
| E | Chart showing all defendants in RAKTL actions,<br>including their state of incorporation and principal<br>place of business |

# EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION**

**RONALD A. KATZ TECHNOLOGY §  
LICENSING, L.P., §**

**Plaintiff, §**

**v. §**

**CITIBANK, ET. AL., §**

**Defendants. §**

**CIVIL ACTION NO. 5:05-CV-142 (DF)**

**AMENDED DOCKET CONTROL ORDER**

STEP	ACTION	RULE	DATE DUE
1	Initial Case Management Conference	Patent L. R. 2-1 FRCP 26(f)	01/24/06
2	Patentee serves Disclosure of Asserted Claims and Preliminary Infringement Contentions of a reasonable number of representative claims	Patent L. R. 3-1	02/27/06
3	Patentee makes Document Production Accompanying Disclosure	Patent L. R. 3-2	02/27/06
4	Initial Disclosures	FRCP 26(a)(1)	02/27/06
5	Parties to notify the Court of an agreed upon mediator for early mediation		03/06/06
6	Accused Infringer serves Preliminary Invalidity Contentions	Patent L. R. 3-3	03/27/06
7	Accused Infringer makes Document Production Accompanying Preliminary Invalidity Contentions	Patent L. R. 3-4	03/27/06

8	All parties make Exchange of Proposed Terms and Claim Elements for Construction	Patent L. R. 4-1(a)	04/03/06
9	All parties meet and confer to discuss list of Proposed Terms and Claim Elements for Construction	Patent L. R. 4-1(b)	After 04/03/06
10	Deadline for early mediation at the Parties' request		04/14/06
11	All parties make Exchange of Preliminary Claim Constructions and Extrinsic Evidence	Patent L. R. 4-2	04/24/06
12	All parties meet and confer to discuss Preliminary Claim Constructions and Extrinsic Evidence	Patent L. R. 4-2(c)	After 04/24/06
13	<b>Patentee shall limit the number of asserted claims to no more than ten (10) and notify the accused infringers and the Court</b>		<b>05/16/06</b>
14	All parties jointly file Joint Claim Construction and Prehearing Statement	Patent L. R. 4-3	05/22/06
15	Deadline to join other parties without leave of Court, which shall be at least 60 days before the deadline for filing dispositive motions		05/22/06
16	Deadline to file amended pleadings without leave of Court, which shall be at least 30 days before the deadline for dispositive motions		05/29/06
17	Completion of Claim Construction Discovery	Patent L. R. 4-4	05/29/06



18	Patentee files opening claim construction brief	Patent L. R. 4-5(a)	06/05/06
19	Accused Infringer files responsive claim construction brief	Patent L. R. 4-5(b)	06/19/06
20	Patentee files reply brief on claim construction	Patent L. R. 4-5(c)	06/26/06
21	ONLY WITH LEAVE OF COURT Accused infringer files sur-reply brief on claim construction		07/03/06
22	Parties file Join Claim Construction Chart	Patent L. R. 4-5(d)	07/10/06
23	Pre-hearing Conference and technical tutorial if necessary		07/12/06
24	Claim Construction Hearing	Patent L. R. 4-6	Thursday, 07/20/06 at 9:00 a.m. Each side shall have 2.5 hours to present.
25	Court's Claim Construction Ruling		On or about 08/04/06 subject to the Court's scheduling and/or use of a technical advisor
26	Patentee makes Final Infringement Contentions	Patent L. R. 3-6(a)	08/28/06 or 30 days after claim construction ruling
27	Accused Infringer serves Preliminary Unenforceability Contentions		09/04/06 or 40 days after claim construction ruling
28	Accused Infringer makes Document Production Accompanying Preliminary Unenforceability Contentions		09/04/06 or 40 days after claim construction ruling
29	Accused Infringer makes Final Invalidity Contentions	Patent L. R. 3-6(b)	09/11/06 or 50 days after claim construction ruling
30	Accused Infringer makes disclosure relating to willfulness	Patent L. R. 3-8	09/11/06 or 50 days after claim construction ruling
31	Accused Infringer makes Final Unenforceability Contentions		10/09/06 or 80 days after claim construction ruling

32	Deadline for completion of all fact discovery, which shall be at least 90 days before the final pre-trial conference		10/09/06 or 80 days after claim construction ruling
33	Deadline for disclosure of expert testimony on issues for which a party bears the burden of proof	FRCP 26(a)(2) L.R. CV-26(b)	10/23/06 or 90 days after claim construction ruling
34	Deadline for disclosure of rebuttal expert testimony	FRCP 26(a)(2) L.R. CV-26(b)	11/13/06 or 110 days after claim construction ruling
35	Deadline for late mediation at the Parties' request		11/17/06
36	Deadline for completion of expert discovery		12/11/06 or 30 days after rebuttal expert testimony
37	Deadline for objections to other parties' expert witnesses		01/08/07
38	Deadline for filing dispositive motions, including motions on invalidity and unenforceability, which shall be at 60 days before the initial pretrial conference		02/02/07
39	Deadline for filing all <i>Daubert</i> motions		03/02/07
40	Deadline for parties to make pretrial disclosures	FRCP 26(a)(3)	03/02/07
41	Patentee to provide to other parties its information for Joint Final Pretrial Order, Proposed Jury Instruction and Verdict Form		03/12/07
42	Defendant and Third-parties to Provide to Patentee their information for Joint Final Pretrial Order, Proposed Jury Instruction and Verdict Form		03/19/07

43	Parties to file Proposed Joint Final Pretrial Order, Proposed Jury Instructions, Joint Verdict Forms and Motions in Limine. Prior to pretrial conference, parties shall confer with each other regarding the other party's Motion in Limine and shall submit to the Court in writing any objections they may have to the other party's Motion in Limine.		04/02/07
44	Initial Pretrial Conference and hearing on Motions in Limine if required		04/16/07
45	Final Pretrial Conference before Judge David Folsom		05/07/07
46	Jury Selection before Judge David Folsom		05/08/07

SIGNED this 8th day of May, 2006.



DAVID FOLSOM  
UNITED STATES DISTRICT JUDGE

## EXHIBIT B

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

RONALD A. KATZ TECHNOLOGY  
LICENSING, L.P.,

Plaintiff,

v.

TD BANKNORTH INC.; EXPERIAN  
INFORMATION SOLUTIONS, INC.; COMERICA  
INCORPORATED; COMERICA BANK & TRUST,  
NATIONAL ASSOCIATION; COMERICA  
SECURITIES, INC.; CERIDIAN CORPORATION;  
COMDATA CORPORATION; DILLARD'S, INC.;  
DILLARD INVESTMENT CO., INC.; LASALLE  
BANK CORPORATION; LASALLE BANK  
NATIONAL ASSOCIATION; LASALLE  
FINANCIAL SERVICES, INC.; ABN AMRO  
MORTGAGE GROUP, INC.,

Defendants.

C.A. No. \_\_\_\_\_

**DEMAND FOR JURY TRIAL**

**PLAINTIFF RONALD A. KATZ TECHNOLOGY LICENSING, L.P.'S  
COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Ronald A. Katz Technology Licensing, L.P. ("Katz Technology Licensing") states as follows for its complaint against TD Banknorth Inc.; Experian Information Solutions, Inc.; Comerica Incorporated; Comerica Bank & Trust, National Association; Comerica Securities, Inc.; Ceridian Corporation; Comdata Corporation; Dillard's, Inc.; Dillard Investment Co., Inc.; LaSalle Bank Corporation; LaSalle Bank National Association; LaSalle Financial Services, Inc.; and ABN AMRO Mortgage Group, Inc.:

**THE PARTIES**

1. Plaintiff Katz Technology Licensing is a California limited partnership with its principal place of business at 9220 Sunset Boulevard, Suite 315, Los Angeles, California 90069.

2. On information and belief, Defendant TD Banknorth Inc. is a Delaware corporation with its principal place of business at Two Portland Square, Portland, Maine 04112.

3. On information and belief, Defendant Experian Information Solutions, Inc. is an Ohio corporation with its principal place of business at 475 Anton Boulevard, Costa Mesa, California 92626.

4. On information and belief, Defendant Comerica Incorporated is a Delaware corporation with its principal place of business at Comerica Tower at Detroit Center, 500 Woodward Avenue, Detroit, Michigan 48226.

5. On information and belief, Defendant Comerica Bank & Trust, National Association is (a) a national banking association with its principal place of business at Comerica Tower at Detroit Center, 500 Woodward Avenue, Detroit, Michigan 48226, and (b) a subsidiary of Comerica Incorporated.

6. On information and belief, Defendant Comerica Securities, Inc. is (a) a Michigan corporation with its principal place of business at 201 West Fort Street, Detroit, Michigan 48226, and (b) a subsidiary of Comerica Incorporated.

7. On information and belief, Defendant Ceridian Corporation is a Delaware corporation with its principal place of business at 3311 East Old Shakopee Road, Minneapolis, Minnesota 55425.

8. On information and belief, Defendant Comdata Corporation is (a) a Delaware corporation with its principal place of business at 5301 Maryland Way, Brentwood, Tennessee 37027, and (b) a subsidiary of Ceridian Corporation

9. On information and belief, Defendant Dillard's, Inc. is a Delaware corporation with its principal place of business at 1600 Cantrell Road, Little Rock, Arkansas 72201.

10. On information and belief, Defendant Dillard Investment Co., Inc. is (a) a Delaware corporation with its principal place of business at 1600 Cantrell Road, Little Rock, Arkansas 72201, and (b) a subsidiary of Dillard's, Inc.

11. On information and belief, Defendant LaSalle Bank Corporation is a Delaware corporation with its principal place of business at 135 LaSalle Street, Chicago, Illinois 60603.

12. On information and belief, Defendant LaSalle Bank National Association is (a) a national banking association with its principal place of business at 135 LaSalle Street, Chicago, Illinois 60603, and (b) a subsidiary of LaSalle Bank Corporation.

13. On information and belief, Defendant LaSalle Financial Services, Inc. is (a) a Delaware corporation with its principal place of business at 135 LaSalle Street, Chicago, Illinois 60603, and (b) a subsidiary of LaSalle Bank Corporation.

14. On information and belief, Defendant ABN AMRO Mortgage Group, Inc. is (a) a Delaware corporation with its principal place of business at 777 East Eisenhower Parkway, Suite 700, Ann Arbor, Michigan 48108, and (b) a subsidiary of LaSalle Bank Corporation.

#### **JURISDICTION AND VENUE**

15. This is an action arising under the patent laws of the United States, 35 U.S.C. sections 101 *et seq.* This Court has subject matter jurisdiction over this action under 28 U.S.C. sections 1331 and 1338(a).

16. TD Banknorth Inc. ("TD Banknorth") is subject to this Court's personal jurisdiction because, on information and belief, it is a Delaware corporation and has designated a registered agent in this district.

17. Experian Information Solutions, Inc. ("Experian") is subject to this Court's personal jurisdiction because, on information and belief, (1) it has designated a registered agent in this district; and (2) it does substantial business in this district.

18. Comerica Incorporated, Comerica Bank & Trust, National Association, and Comerica Securities, Inc. (collectively, the "Comerica Defendants") are subject to this Court's personal jurisdiction because, on information and belief, (1) Comerica Incorporated is a

Delaware corporation and has designated a registered agent in this district; (2) they do substantial business in this district; (3) they operate infringing automated call processing systems for banking, financial, and investment services and information that are available to their customers, including customers in this district; and/or (4) they regularly solicit business from, do business with, and derive revenue from goods and services provided to, customers in this district.

19. Ceridian Corporation and Comdata Corporation (collectively, the “Ceridian Defendants”) are subject to this Court’s personal jurisdiction because, on information and belief, (1) they are Delaware corporations and have designated a registered agent in this district; (2) they do substantial business in this district; (3) they operate infringing automated call processing systems for banking and investment services that are available to their customers, including customers in this district; and/or (4) they regularly solicit business from, do business with, and derive revenue from goods and services provided to, customers in this district.

20. Dillard’s, Inc. and Dillard Investment Co., Inc. (collectively, the “Dillard’s Defendants”) are subject to this Court’s personal jurisdiction because, on information and belief, they are Delaware corporations and have designated a registered agent in this district.

21. LaSalle Bank Corporation, LaSalle Bank National Association, LaSalle Financial Services, Inc., and ABN AMRO Mortgage Group, Inc. (collectively, the “LaSalle Defendants”) are subject to this Court’s personal jurisdiction because, on information and belief, (1) they are Delaware corporations and/or have designated a registered agent in this district; (2) they do substantial business in this district; (3) they operate infringing automated call processing systems for customer service, mortgage services and other financial services that are available to their customers, including customers in this district; and/or (4) they regularly solicit business from, do business with, and derive revenue from goods and services provided to, customers in this district.

22. Venue is proper in this judicial district under 28 U.S.C. sections 1391(c) and 1400(b) because the Defendants reside, or engage in significant business activities, in this district as set forth in Paragraphs 2-14 and 16-21 above.



### **BACKGROUND**

23. Ronald A. Katz ("Mr. Katz"), founder of Katz Technology Licensing, is the sole inventor of each of the patents-in-suit. Mr. Katz has been widely recognized as one of the most prolific and successful inventors of our time, and his inventions over the last forty-plus years have been utilized by literally millions of people.

24. In 1961, Mr. Katz co-founded Telecredit Inc. ("Telecredit"), the first company to provide online, real-time credit authorization, allowing merchants to verify checks over the telephone. Further innovations from Telecredit include the first online, real-time, point-of-sale credit verification terminal, which enabled merchants to verify checks without requiring the assistance of a live operator, and the first device that used and updated magnetically-encoded cards in automated teller machines. Multiple patents issued from these innovations, including patents co-invented by Mr. Katz.

25. Telecredit was eventually acquired by Equifax, and has now been spun off as Certegy, a public company traded on the New York Stock Exchange. Certegy continues to provide services in the credit and check verification field established by Mr. Katz and Telecredit.

26. Mr. Katz's inventions have not been limited to telephonic check verification. Indeed, Mr. Katz is responsible for advancements in many fields of technology. Among his most prominent and well-known innovations are those in the field of interactive call processing. Mr. Katz's inventions in that field are directed to the integration of telephonic systems with computer databases and live operator call centers to provide interactive call processing services.

27. The first of Mr. Katz's interactive call processing patents issued on December 20, 1988. More than fifty U.S. patents have issued to Mr. Katz for his inventions in the interactive call-processing field, including each of the patents-in-suit.

28. In 1988, Mr. Katz partnered with American Express to establish FDR Interactive Technologies, later renamed Call Interactive, to provide interactive call processing

services based on Mr. Katz's inventions. The American Express business unit involved in this joint venture later became known as First Data.

29. Early clients of Call Interactive included *The New York Times*, ABC's *Monday Night Football*, KABC Radio, CBS News, and Beatrice Foods (Hunt-Wesson division).

30. Many of these clients utilized Call Interactive technology for high-profile events. For example, CBS News hired Call Interactive to operate an interactive, real-time telephone poll to gauge viewer reaction to President George H.W. Bush's 1992 State of the Union address.

31. Mr. Katz sold his interest in Call Interactive to American Express in 1989 but continued to provide advisory services to Call Interactive until 1992. American Express later spun off the First Data business unit into a separate corporation, and with that new entity went Mr. Katz's interactive call processing patents and the Call Interactive call processing business. The former Call Interactive, now known as First Data Voice Services, continues to provide call processing solutions today.

32. In 1994, Mr. Katz formed Katz Technology Licensing, which acquired the rights to the entire interactive call processing patent portfolio, including the rights to each of the patents-in-suit, from First Data, the owner of all of the Katz interactive call processing patents at that time.

33. The marketplace has clearly recognized the value of Mr. Katz's inventions. Indeed, over one hundred fifty companies have licensed the patents-in-suit. Licensees include IBM, Hewlett-Packard, Bank of America, JPMorgan Chase, Wells Fargo, HSBC, AT&T, Verizon, Sprint, Microsoft, Delta Airlines, Merck, Sears, Citibank, and the Home Shopping Network. These licensees and others acknowledge the applicability of the patents-in-suit to multiple fields of use, including but not limited to financial services call processing, automated securities transactions, automated credit card authorization services, automated wireless telecommunication services and support, automated health care services, and product and service support.

34. Each of the defendants employs the inventions of certain of the patents-in-suit. Katz Technology Licensing, through its licensing arm A2D, L.P., has repeatedly attempted to engage each defendant in licensing negotiations, but to date, none of the defendants has agreed to take a license to any of the patents-in-suit.

### **THE ASSERTED PATENTS**

35. On December 20, 1988, the United States Patent and Trademark Office duly and legally issued United States Patent No. 4,792,968 (the “‘968 Patent”) to Ronald A. Katz for an invention entitled “Statistical Analysis System for Use With Public Communication Facility.” The ‘968 Patent expired on December 20, 2005.

36. On May 29, 1990, the United States Patent and Trademark Office duly and legally issued United States Patent No. 4,930,150 (the “‘150 Patent”) to Ronald A. Katz for an invention entitled “Telephonic Interface Control System.” The ‘150 Patent expired on December 20, 2005.

37. On July 7, 1992, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,128,984 (the “‘984 Patent”) to Ronald A. Katz for an invention entitled “Telephone Interface Call Processing System With Call Selectivity.”

38. On October 5, 1993, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,251,252 (the “‘252 Patent”) to Ronald A. Katz for an invention entitled “Telephone Interface Call Processing System With Call Selectivity.”

39. On September 27, 1994, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,351,285 (the “‘285 Patent”) to Ronald A. Katz for an invention entitled “Multiple Format Telephonic Interface Control System.” The ‘285 Patent expired on December 20, 2005.

40. On November 4, 1997, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,684,863 (the “‘863 Patent”) to Ronald A. Katz

for an invention entitled “Telephonic-Interface Statistical Analysis System.” The ‘863 Patent expired on December 20, 2005.

41. On September 29, 1998, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,815,551 (the “‘551 Patent”) to Ronald A. Katz for an invention entitled “Telephonic-Interface Statistical Analysis System.” The ‘551 Patent expired on December 20, 2005.

42. On October 27, 1998, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,828,734 (the “‘734 Patent”) to Ronald A. Katz for an invention entitled “Telephone Interface Call Processing System With Call Selectivity.”

43. On April 27, 1999, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,898,762 (the “‘762 Patent”) to Ronald A. Katz for an invention entitled “Telephonic-Interface Statistical Analysis System.” The ‘762 Patent expired on December 20, 2005.

44. On June 29, 1999, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,917,893 (the “‘893 Patent”) to Ronald A. Katz for an invention entitled “Multiple Format Telephonic Interface Control System.” The ‘893 Patent expired on December 20, 2005.

45. On October 26, 1999, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,974,120 (the “‘120 Patent”) to Ronald A. Katz for an invention entitled “Telephone Interface Call Processing System With Call Selectivity.”

46. On March 7, 2000, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,035,021 (the “‘021 Patent”) to Ronald A. Katz for an invention entitled “Telephonic-Interface Statistical Analysis System.” The ‘021 Patent expired on December 20, 2005.

47. On November 14, 2000, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,148,065 (the “‘065 Patent”) to Ronald A. Katz

for an invention entitled "Telephonic-Interface Statistical Analysis System." The '065 Patent expired on July 10, 2005.

48. On January 1, 2002, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,335,965 (the "'965 Patent") to Ronald A. Katz for an invention entitled "Voice-Data Telephonic Interface Control System." The '965 Patent expired on December 20, 2005.

49. On February 19, 2002, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,349,134 (the "'134 Patent") to Ronald A. Katz for an invention entitled "Telephonic-Interface Statistical Analysis System." The '134 Patent expired on December 20, 2005.

50. On July 23, 2002, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,424,703 (the "'703 Patent") to Ronald A. Katz for an invention entitled "Telephonic-Interface Lottery System." The '703 Patent expired on July 10, 2005.

51. On August 13, 2002, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,434,223 (the "'223 Patent") to Ronald A. Katz for an invention entitled "Telephone Interface Call Processing System With Call Selectivity." The '223 Patent expired on July 10, 2005.

52. On January 28, 2003, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,512,415 (the "'415 Patent") to Ronald A. Katz for an invention entitled "Telephonic-Interface Game Control System." The '415 Patent expired on July 10, 2005.

53. On January 13, 2004, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,678,360 (the "'360 Patent") to Ronald A. Katz for an invention entitled "Telephonic-Interface Statistical Analysis System." The '360 Patent expired on July 10, 2005.

**FIRST CLAIM**  
**(PATENT INFRINGEMENT BY TD BANKNORTH)**

54. Katz Technology Licensing realleges and incorporates by reference Paragraphs 1-53 of this Complaint as if fully set forth herein.

55. TD Banknorth and its subsidiaries provide banking and financial services to customers in the states of Maine, New Hampshire, New York, Vermont, Massachusetts, New Jersey, Pennsylvania, and Connecticut.

56. On information and belief, TD Banknorth uses infringing call processing systems to offer automated customer service and telephone banking services to its customers. Using an automated system, in some instances in connection with operators, TD Banknorth allows its customers to access information about their accounts, establish or change their personal identification numbers, transfer funds, make loan payments, activate gift cards, and perform various other functions.

57. Katz Technology Licensing is the sole holder of the entire right, title, and interest in the '120, '134, '150, '223, '252, '285, '360, '551, '734, '863, '893, '965, '968, and '984 Patents.

58. On information and belief, in their automated customer service and telephone banking service operations described in Paragraph 56 (collectively, the "Accused TD Banknorth Services"), TD Banknorth has been and is now infringing, actively inducing the infringement of, or contributing to the infringement of one or more claims of each of the patents identified in Paragraph 57 of this Complaint by making, using, offering to sell, or selling the Accused TD Banknorth Services.

59. On information and belief, TD Banknorth continues to infringe, actively induce the infringement of, and contribute to the infringement of one or more claims of the '120, '252, '734, and '984 Patents by making, using, offering to sell, or selling the Accused TD Banknorth Services.

60. TD Banknorth's infringement of the patents identified in Paragraph 57 of this Complaint has been and is willful.

61. TD Banknorth's infringement has caused and will continue to cause Katz Technology Licensing irreparable harm unless enjoined by this Court. Katz Technology Licensing has no adequate remedy at law.

**SECOND CLAIM**  
**(PATENT INFRINGEMENT BY EXPERIAN)**

62. Katz Technology Licensing realleges and incorporates by reference Paragraphs 1-53 of this Complaint as if fully set forth herein.

63. Experian is a global supplier of information services relating to customer relationship management, e-commerce, and marketing and it also maintains one of the top credit-reporting agencies in the United States.

64. On information and belief, Experian uses infringing call processing systems to offer automated credit reporting services to its customers. Using an automated system, in some instances in connection with operators, Experian enables individuals to purchase copies of their credit reports, obtain and manage information in their credit files, obtain information and assistance relating to credit fraud, decode information found on a credit report, and perform various other functions.

65. Katz Technology Licensing is the sole holder of the entire right, title, and interest in the '065, '120, '150, '223, '252, '285, '360, '415, '551, '734, '762, '863, '965, '968, and '984 Patents.

66. On information and belief, in its automated credit reporting service operations described in Paragraph 64 (collectively, the "Accused Experian Services"), Experian has been and is now infringing, actively inducing the infringement of, or contributing to the infringement of one or more claims of each of the patents identified in Paragraph 65 of this Complaint by making, using, offering to sell, or selling the Accused Experian Services.



67. On information and belief, Experian continues to infringe, actively induce the infringement of, and contribute to the infringement of one or more claims of the '120, '252, '734, and '984 Patents by making, using, offering to sell, or selling the Accused Experian Services.

68. Experian's infringement of the patents identified in Paragraph 65 of this Complaint has been and is willful.

69. Experian's infringement has caused and will continue to cause Katz Technology Licensing irreparable harm unless enjoined by this Court. Katz Technology Licensing has no adequate remedy at law.

**THIRD CLAIM**  
**(PATENT INFRINGEMENT BY COMERICA DEFENDANTS)**

70. Katz Technology Licensing realleges and incorporates by reference Paragraphs 1-53 of this Complaint as if fully set forth herein.

71. Comerica Incorporated provides banking and wealth advisory services, including investment and trust management, through, *inter alia*, its subsidiaries Comerica Bank & Trust, National Association and Comerica Securities, Inc.

72. On information and belief, the Comerica Defendants use infringing call processing systems to offer automated banking and investment services to their customers. Using an automated system, in some instances in connection with operators, the Comerica Defendants allow their customers to access information about their accounts, transfer funds between accounts, issue stop payments on checks, access current interest rates and stock quotes, place stock orders, pay bills, and perform various other functions.

73. Katz Technology Licensing is the sole holder of the entire right, title, and interest in the '120, '134, '150, '223, '252, '285, '551, '734, '762, '863, '968, and '984 Patents.

74. On information and belief, in their automated account service and financial information functions described in Paragraph 72 (collectively, the "Accused Comerica



Services”), the Comerica Defendants have been and are now infringing, actively inducing the infringement of, or contributing to the infringement of one or more claims of each of the patents identified in Paragraph 73 of this Complaint by making, using, offering to sell, or selling the Accused Comerica Services.

75. On information and belief, the Comerica Defendants continue to infringe, actively induce the infringement of, and contribute to the infringement of one or more claims of the ‘120, ‘252, ‘734, and ‘984 Patents by making, using, offering to sell, or selling the Accused Comerica Services.

76. The Comerica Defendants’ infringement of the patents identified in Paragraph 73 of this Complaint has been and is willful.

77. The Comerica Defendants’ infringement has caused and will continue to cause Katz Technology Licensing irreparable harm unless enjoined by this Court. Katz Technology Licensing has no adequate remedy at law.

**FOURTH CLAIM**  
**(PATENT INFRINGEMENT BY CERIDIAN DEFENDANTS)**

78. Katz Technology Licensing realleges and incorporates by reference Paragraphs 1-53 of this Complaint as if fully set forth herein.

79. The Ceridian Defendants provide information, human resources, and other financial services to businesses, including those in the transportation and retail markets.

80. On information and belief, the Ceridian Defendants use infringing call processing systems to offer automated banking and investment services to their customers. Using an automated system, in some instances in connection with operators, the Ceridian Defendants allow their customers to access information about and administer their accounts, transfer funds, approve and verify checks, and perform various other functions.

81. Katz Technology Licensing is the sole holder of the entire right, title, and interest in the '065, '120, '134, '150, '223, '252, '285, '360, '551, '734, '863, '893, '965, '968, and '984 Patents.

82. On information and belief, in their automated account service and financial information functions described in Paragraph 80 (collectively, the "Accused Ceridian Services"), the Ceridian Defendants have been and are now infringing, actively inducing the infringement of, or contributing to the infringement of one or more claims of each of the patents identified in Paragraph 81 of this Complaint by making, using, offering to sell, or selling the Accused Ceridian Services.

83. On information and belief, the Ceridian Defendants continue to infringe, actively induce the infringement of, and contribute to the infringement of one or more claims of the '120, '252, '734, and '984 Patents by making, using, offering to sell, or selling the Accused Ceridian Services.

84. The Ceridian Defendants' infringement of the patents identified in Paragraph 81 of this Complaint has been and is willful.

85. The Ceridian Defendants' infringement has caused and will continue to cause Katz Technology Licensing irreparable harm unless enjoined by this Court. Katz Technology Licensing has no adequate remedy at law.

**FIFTH CLAIM**  
**(PATENT INFRINGEMENT BY DILLARD'S DEFENDANTS)**

86. Katz Technology Licensing realleges and incorporates by reference Paragraphs 1-53 of this Complaint as if fully set forth herein.

87. Dillard's, Inc. is a fashion and home furnishings retailer with hundreds of stores. On information and belief, Dillard's also participates in offering credit card services through an agreement with GE Capital Consumer Card Co., and previously offered such services

through its subsidiary Dillard National Bank. On information and belief, Dillard National Bank has merged into Dillard Investment Co., Inc.

88. On information and belief, the Dillard's Defendants use infringing call processing systems to offer automated customer service to their customers. Using an automated system, in some instances in connection with operators, the Dillard's Defendants allow their customers to access information about their credit card accounts, pay their credit card balances, update or change their account information, order cards and statements, locate Dillard's stores, and perform various other functions.

89. Katz Technology Licensing is the sole holder of the entire right, title, and interest in the '065, '120, '134, '150, '223, '252, '285, '360, '551, '734, '863, '893, '965, '968, and '984 Patents.

90. On information and belief, in their automated customer service operations described in Paragraph 88 (collectively, the "Accused Dillard's Services"), the Dillard's Defendants have been and are now infringing, actively inducing the infringement of, or contributing to the infringement of one or more claims of each of the patents identified in Paragraph 89 of this Complaint by making, using, offering to sell, or selling the Accused Dillard's Services.

91. On information and belief, the Dillard's Defendants continue to infringe, actively induce the infringement of, and contribute to the infringement of one or more claims of the '120, '252, '734, and '984 Patents by making, using, offering to sell, or selling the Accused Dillard's Services.

92. The Dillard's Defendants' infringement of the patents identified in Paragraph 89 of this Complaint has been and is willful.

93. The Dillard's Defendants' infringement has caused and will continue to cause Katz Technology Licensing irreparable harm unless enjoined by this Court. Katz Technology Licensing has no adequate remedy at law.

**SIXTH CLAIM**  
**(PATENT INFRINGEMENT BY LASALLE DEFENDANTS)**

94. Katz Technology Licensing realleges and incorporates by reference Paragraphs 1-53 of this Complaint as if fully set forth herein.

95. LaSalle Bank Corporation and its subsidiaries, including LaSalle Bank National Association, LaSalle Financial Services, Inc., and ABN AMRO Mortgage Group, Inc., provide banking and lending services, including mortgages, as well as a variety of investment, brokerage, and wealth management services.

96. On information and belief, the LaSalle Defendants use interactive voice response technology to offer automated customer service and banking capabilities to their customers. Using an automated system, in some instances in connection with operators, the LaSalle Defendants allow their customers to access information about their accounts, transfer funds, order checks, activate bank cards, place stop payments, obtain information about loans, obtain information about wire transfers, and perform various other functions.

97. Katz Technology Licensing is the sole holder of the entire right, title, and interest in the '021, '065, '120, '134, '150, '223, '252, '285, '415, '551, '703, '734, '762, '863, '893, '965, '968, and '984 Patents.

98. On information and belief, in their automated customer service operations described in Paragraph 96 (collectively, the "Accused LaSalle Services"), the LaSalle Defendants have been and are now infringing, actively inducing the infringement of, or contributing to the infringement of one or more claims of each of the patents identified in Paragraph 97 of this Complaint by making, using, offering to sell, or selling the Accused LaSalle Services.

99. On information and belief, the LaSalle Defendants continue to infringe, actively induce the infringement of, and contribute to the infringement of one or more claims of the '120, '252, '734, and '984 Patents by making, using, offering to sell, or selling the Accused Dillard's Services.

100. The LaSalle Defendants' infringement of the patents identified in Paragraph 97 of this Complaint has been and is willful.

101. The LaSalle Defendants' infringement has caused and will continue to cause Katz Technology Licensing irreparable harm unless enjoined by this Court. Katz Technology Licensing has no adequate remedy at law.

**PRAYER FOR RELIEF**

WHEREFORE, Ronald A. Katz Technology Licensing, L.P., respectfully requests that this Court enter judgment in its favor and against the defendants and grant the following relief:

1. Adjudge that TD Banknorth has been and is infringing one or more claims of the patents identified in Paragraph 57 of this Complaint by offering the Accused TD Banknorth Services;

2. Adjudge that TD Banknorth's infringement has been and is willful;

3. Enter an order, pursuant to 35 U.S.C. § 283, temporarily, preliminarily, and permanently enjoining TD Banknorth, and all persons in active concert or participation with it, from any further acts of infringement, contributory infringement, or inducement of infringement of the '120, '252, '734, and '984 Patents;

4. Order an accounting for damages resulting from TD Banknorth's infringement of the patents identified in Paragraph 57 of this Complaint;

5. Enter an order, pursuant to 35 U.S.C. § 284, awarding to Katz Technology Licensing damages adequate to compensate Katz Technology Licensing for TD Banknorth's infringement, but in no event less than a reasonable royalty, together with pre-judgment and post-judgment interest;

6. Enter an order, pursuant to 35 U.S.C. § 284, and based on TD Banknorth's willful infringement, trebling all damages awarded to Katz Technology Licensing and against TD Banknorth;

7. Adjudge that Experian has been and is infringing one or more claims of the patents identified in Paragraph 65 of this Complaint by offering the Accused Experian Services;

8. Adjudge that Experian's infringement has been and is willful;

9. Enter an order, pursuant to 35 U.S.C. § 283, temporarily, preliminarily, and permanently enjoining Experian, and all persons in active concert or participation with it, from any further acts of infringement, contributory infringement, or inducement of infringement of the '120, '252, '734, and '984 Patents;

10. Order an accounting for damages resulting from Experian's infringement of the patents identified in Paragraph 65 of this Complaint;

11. Enter an order, pursuant to 35 U.S.C. § 284, awarding to Katz Technology Licensing damages adequate to compensate Katz Technology Licensing for Experian's infringement, but in no event less than a reasonable royalty, together with pre-judgment and post-judgment interest;

12. Enter an order, pursuant to 35 U.S.C. § 284, and based on Experian's willful infringement, trebling all damages awarded to Katz Technology Licensing and against Experian;

13. Adjudge that the Comerica Defendants have been and are infringing one or more claims of the patents identified in Paragraph 73 of this Complaint by offering the Accused Comerica Services;

14. Adjudge that the Comerica Defendants' infringement has been and is willful;

15. Enter an order, pursuant to 35 U.S.C. § 283, temporarily, preliminarily, and permanently enjoining the Comerica Defendants, and all persons in active concert or participation with them, from any further acts of infringement, contributory infringement, or inducement of infringement of the '120, '252, '734, and '984 Patents;

16. Order an accounting for damages resulting from the Comerica Defendants' infringement of the patents identified in Paragraph 73 of this Complaint;

17. Enter an order, pursuant to 35 U.S.C. § 284, awarding to Katz Technology Licensing damages adequate to compensate Katz Technology Licensing for the Comerica Defendants' infringement, but in no event less than a reasonable royalty, together with pre-judgment and post-judgment interest;

18. Enter an order, pursuant to 35 U.S.C. § 284, and based on the Comerica Defendants' willful infringement, trebling all damages awarded to Katz Technology Licensing and against the Comerica Defendants;

19. Adjudge that the Ceridian Defendants have been and are infringing one or more claims of the patents identified in Paragraph 81 of this Complaint by offering the Accused Ceridian Services;

20. Adjudge that the Ceridian Defendants' infringement has been and is willful;

21. Enter an order, pursuant to 35 U.S.C. § 283, temporarily, preliminarily, and permanently enjoining the Ceridian Defendants, and all persons in active concert or participation with them, from any further acts of infringement, contributory infringement, or inducement of infringement of the '120, '252, '734, and '984 Patents;

22. Order an accounting for damages resulting from the Ceridian Defendants' infringement of the patents identified in Paragraph 81 of this Complaint;

23. Enter an order, pursuant to 35 U.S.C. § 284, awarding to Katz Technology Licensing damages adequate to compensate Katz Technology Licensing for the Ceridian Defendants' infringement, but in no event less than a reasonable royalty, together with pre-judgment and post-judgment interest;

24. Enter an order, pursuant to 35 U.S.C. § 284, and based on the Ceridian Defendants' willful infringement, trebling all damages awarded to Katz Technology Licensing and against the Ceridian Defendants;

25. Adjudge that the Dillard's Defendants have been and are infringing one or more claims of the patents identified in Paragraph 89 of this Complaint by offering the Accused Dillard's Services;

26. Adjudge that the Dillard's Defendants' infringement has been and is willful;

27. Enter an order, pursuant to 35 U.S.C. § 283, temporarily, preliminarily, and permanently enjoining the Dillard's Defendants, and all persons in active concert or participation with them, from any further acts of infringement, contributory infringement, or inducement of infringement of the '120, '252, '734, and '984 Patents;

28. Order an accounting for damages resulting from the Dillard's Defendants' infringement of the patents identified in Paragraph 89 of this Complaint;

29. Enter an order, pursuant to 35 U.S.C. § 284, awarding to Katz Technology Licensing damages adequate to compensate Katz Technology Licensing for the Dillard's Defendants' infringement, but in no event less than a reasonable royalty, together with pre-judgment and post-judgment interest;

30. Enter an order, pursuant to 35 U.S.C. § 284, and based on the Dillard's Defendants' willful infringement, trebling all damages awarded to Katz Technology Licensing and against the Dillard's Defendants;

31. Adjudge that the LaSalle Defendants have been and are infringing one or more claims of the patents identified in Paragraph 97 of this Complaint by offering the Accused LaSalle Services;

32. Adjudge that the LaSalle Defendants' infringement has been and is willful;

33. Enter an order, pursuant to 35 U.S.C. § 283, temporarily, preliminarily, and permanently enjoining the LaSalle Defendants, and all persons in active concert or participation with them, from any further acts of infringement, contributory infringement, or inducement of infringement of the '120, '252, '734, and '984 Patents;



34. Order an accounting for damages resulting from the LaSalle Defendants' infringement of the patents identified in Paragraph 97 of this Complaint;

35. Enter an order, pursuant to 35 U.S.C. § 284, awarding to Katz Technology Licensing damages adequate to compensate Katz Technology Licensing for the LaSalle Defendants' infringement, but in no event less than a reasonable royalty, together with pre-judgment and post-judgment interest;

36. Enter an order, pursuant to 35 U.S.C. § 284, and based on the LaSalle Defendants' willful infringement, trebling all damages awarded to Katz Technology Licensing and against the LaSalle Defendants;

37. Enter an order, pursuant to 35 U.S.C. § 285, finding that this is an exceptional case and awarding to Katz Technology Licensing its reasonable attorneys' fees incurred in this action; and

38. Award such other relief as the Court may deem appropriate and just under the circumstances.

**JURY DEMAND**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure and the Seventh Amendment to the Constitution of the United States, Plaintiff demands a trial by jury of all claims and all issues triable as of right by jury in this action.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

*/s/ Mary B. Graham*

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Dated: September 1, 2006  
535031

## EXHIBIT C

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**US District Court Civil Docket**

U.S. District - Pennsylvania Eastern  
(Philadelphia)

**2:01cv5627**

**Ronald A Katz v. Verizon Communicatio, et al**

This case was retrieved from the court on Wednesday, November 01, 2006

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Date Filed: 11/07/2001	Class Code: CLOSED, APPEAL, SEALDC, SPECIAL
Assigned To: Honorable Clarence C Newcomer	Closed: yes
Referred To:	Statute: 35:145
Nature of suit: Patent (830)	Jury Demand: Plaintiff
Cause: Patent Infringement	Demand Amount: \$0
Lead Docket: None	NOS Description: Patent
Other Docket: ED/PA, related to 97-04453	
Jurisdiction: Federal Question	

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USA  
215-751-2072

Verzon Wireless Inc  
Defendant  
[Term: 01/23/2002]

Verzon Pennsylvania Inc  
Movant

Cellco Partnership Doing Business as Verizon Wireless  
Defendant

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Date

#

Proceeding Text

11/07/2001	1	Complaint. filing fee \$ 150 receipt # 775516 (ss) (Entered: 11/07/2001)
11/07/2001	--	Summons(es) issued, Two originals Forwarded to: counsel 11/07/01 (ss) (Entered: 11/07/2001)
11/07/2001	--	Demand for jury trial by PLAINTIFF RONALD A. KATZ (ss) (Entered: 11/07/2001)
11/07/2001	--	Special Case Management Track. (ss) (Entered: 11/07/2001)
11/07/2001	2	Copy of Form to Commissioner of Patent. (ss) (Entered: 11/08/2001)
11/14/2001	3	SPECIAL MANAGEMENT TRACK CASE MANAGEMENT ORDER THAT THIS CASE WILL BE MANAGED PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 16 AND CHAPTERS III, VII, VIII AND IX OF THE CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLAN OF THIS DISTRICT (EFFECTIVE 12/31/91). THE INITIAL PRETRIAL CONFERENCE WILL BE HELD WHEN DEFENSE COUNSEL HAS ENTERED AN APPEARANCE AND USUALLY WITHIN THIRTY AND SIXTY DAYS AFTER THE FILING OF THE COMPLAINT. COMMUNICATIONS WITH THE COURT AND ITS STAFF WILL BE DONE IN ACCORDANCE WITH THE NOTICE TO COUNSEL WHICH HAS BEEN SERVED OR WILL BE SERVED CONCURRENTLY WITH THE SERVICE OF THIS POLICY STATEMENT, ETC. ( SIGNED BY JUDGE LOWELL A. REED JR. ) 11/14/01 ENTERED AND COPIES MAILED AND FAXED. (jl) (Entered: 11/14/2001)
11/29/2001	4	Amended complaint by PLAINTIFF RONALD A. KATZ , amending [1-1] complaint against CELCO PARTNERSHIP, jury demand. (jl) (Entered: 11/29/2001)
11/29/2001	--	3 Amended Summons(es) issued Forwarded to: GREGORY MILLER 11/29/01 (jl) (Entered: 11/29/2001)
12/11/2001	5	Affidavit of: DENNIS RICHMAN re: served summons and complaint upon DEFENDANT , VERIZON COMMUNICATIO . Served by: PERSONAL SERVICE on 11/29/01 (service accepted by Sandi Solomon). (jl) (Entered: 12/11/2001)
12/11/2001	6	Affidavit of: Thomas Crean, Jr. re: served summons and complaint upon DEFENDANT VERIZON WIRELESS INC, DEFENDANT CELCO PARTNERSHIP . Served by: Personal Service on 11/30/01 . (jl) (Entered: 12/11/2001)
12/13/2001	7	Affidavit of: DENNIS RICHMAN re: served summons and complaint upon DEFENDANT , VERIZON COMMUNICATIO, DEFENDANT VERIZON WIRELESS INC . Served by: PERSONAL SERVICE on 11/19/01 (service accepted by Nancy Armstrong). (jl) (Entered: 12/13/2001)
12/17/2001	8	STIPULATION AND ORDER THAT DEFTS' TIME TO ANSWER, MOVE OR OTHERWISE PLEAD SHALL BE EXTENDED TO 1/4/02. (Attorney: MATTHEW J. SIEMBIEDA) ( SIGNED BY JUDGE LOWELL A. REED JR. ) 12/17/01 ENTERED AND COPIES FAXED. (gn) Modified on 12/17/2001 (Entered: 12/17/2001)
01/04/2002	9	MOTION by DEFENDANT VERIZON COMMUNICATIO FOR SUMMARY JUDGMENT OF NON-INFRINGEMENT , MEMORANDUM, CERTIFICATE OF SERVICE. (jl) (Entered: 01/04/2002)
01/04/2002	10	MOTION by DEFENDANT VERIZON WIRELESS INC TO DISMISS FOR LACK OF PERSONAL JURISDICTION , MEMORANDUM, CERTIFICATE OF SERVICE. (jl) (Entered: 01/04/2002)
01/04/2002	11	Answer with affirmative defenses and counterclaim by , VERIZON COMMUNICATIO to Plaintiff's amended complaint , Certificate of Service. (jl) (Entered: 01/04/2002)
01/23/2002	12	STIPULATION AND ORDER THAT THE TIME FOR RAKTL TO FILE ITS OPPOSITION TO VCI'S MOTION FOR SUMMARY JUDGMENT ON NON-INFRINGEMENT SHOULD BE EXTENDED TO 3/18/02; ETC. ( SIGNED BY JUDGE LOWELL A. REED JR. ) 1/23/02 ENTERED AND COPIES MAILED . (jl) (Entered: 01/23/2002)
01/23/2002	13	STIPULATION AND ORDER THAT VWI'S MOTION TO DISMISS SHOULD BE GRANTED AND THAT VWI SHOULD BE DISMISSED FROM THIS LAWSUIT AT THIS TIME, WITHOUT PREJUDICE, ETC. ( SIGNED BY JUDGE LOWELL A. REED JR. ) 1/23/02 ENTERED AND COPIES MAILED. (jl) (Entered: 01/23/2002)
01/24/2002	14	Reply with affirmative defenses by RONALD A. KATZ to VERIZON COMMUNICATIONS INC.'S COUNTERCLAIM , Certificate of Service. (jl) (Entered: 01/25/2002)

01/29/2002	15	STIPULATION AND ORDER THAT THE TIME FOR CELCO TO ANSWER, MOVE OR OTHERWISE RESPOND TO PLAINTIFFS AMENDED COMPLAINT IS HEREBY EXTENDED UNTIL 2/22/02 ( SIGNED BY JUDGE LOWELL A. REED JR. ) 1/29/02 ENTERED AND FAXED. (ji) (Entered: 01/29/2002)
01/29/2002	16	MOTION by PLAINTIFF RONALD A. KATZ FOR ADMISSION OF NITIN SUBHEDAR, ESQUIRE PRO HAC VICE , CERTIFICATE OF SERVICE. (ji) (Entered: 01/29/2002)
01/29/2002	17	MOTION by PLAINTIFF RONALD A. KATZ FOR ADMISSION OF STANLEY YOUNG, ESQUIRE PRO HAC VICE , CERTIFICATE OF SERVICE. (ji) (Entered: 01/29/2002)
01/29/2002	18	MOTION by PLAINTIFF RONALD A. KATZ FOR ADMISSION OF ROBERT T. HASLAM, ESQUIRE PRO HAC VICE , CERTIFICATE OF SERVICE. (ji) (Entered: 01/29/2002)
01/29/2002	19	MOTION by PLAINTIFF RONALD A. KATZ FOR ADMISSION OF LILLIAN C. HENRY, ESQUIRE PRO HAC VICE , CERTIFICATE OF SERVICE. (ji) (Entered: 01/29/2002)
01/29/2002	20	MOTION by PLAINTIFF RONALD A. KATZ FOR ADMISSION OF SARAH ELIZABETH MITCHELL, ESQUIRE PRO HAC VICE , CERTIFICATE OF SERVICE. (ji) (Entered: 01/29/2002)
01/29/2002	21	MOTION by PLAINTIFF RONALD A. KATZ FOR ADMISSION OF MICHAEL M. MARKMAN, ESQUIRE PRO HAC VICE , CERTIFICATE OF SERVICE. (ji) (Entered: 01/29/2002)
01/31/2002	22	ORDER THAT PLAINTIFFS MOTION FOR ADMISSION OF SARAH ELIZABETH MITCHELL, ESQUIRE PRO HAC VICE IS GRANTED; ETC. (Attorney: SARAH ELIZABETH MITCHELL) ( SIGNED BY JUDGE LOWELL A. REED JR. ) 1/31/02 ENTERED AND COPIES MAILED. (ji) (Entered: 01/31/2002)
01/31/2002	23	ORDER THAT PLAINTIFFS MOTION FOR ADMISSION OF LILLIAN C. HENRY, ESQUIRE PRO HAC VICE IS GRANTED; ETC. (Attorney: LILLIAN C. HENRY) ( SIGNED BY JUDGE LOWELL A. REED JR. ) 1/31/02 ENTERED AND COPIES MAILED. (ji) (Entered: 01/31/2002)
01/31/2002	24	ORDER THAT PLAINTIFFS MOTION FOR ADMISSION OF ROBERT T. HASLAM, ESQUIRE PRO HAC VICE IS GRANTED; ETC. (Attorney: ROBERT T. HASLAM) ( SIGNED BY JUDGE LOWELL A. REED JR. ) 1/31/02 ENTERED AND COPIES MAILED. (ji) (Entered: 01/31/2002)
01/31/2002	25	ORDER THAT PLAINTIFFS MOTION FOR ADMISSION OF NITIN SUBHEDAR, ESQUIRE PRO HAC VICE IS GRANTED, ETC. (Attorney: NITIN SUBHEDAR) ( SIGNED BY JUDGE LOWELL A. REED JR. ) 1/31/02 ENTERED AND COPIES MAILED. (ji) (Entered: 01/31/2002)
01/31/2002	26	ORDER THAT PLAINTIFFS MOTION FOR ADMISSION OF STANLEY YOUNG, ESQUIRE PRO HAC VICE IS GRANTED; ETC. (Attorney: STANLEY YOUNG) ( SIGNED BY JUDGE LOWELL A. REED JR. ) 1/31/02 ENTERED AND COPIES MAILED. (ji) (Entered: 01/31/2002)
01/31/2002	27	ORDER THAT PLAINTIFFS MOTION FOR ADMISSION OF MICHAEL M. MARKMAN, ESQUIRE PRO HAC VICE IS GRANTED; ETC. (Attorney: MICHAEL M. MARKMAN) ( SIGNED BY JUDGE LOWELL A. REED JR. ) 1/31/02 ENTERED AND COPIES MAILED. (ji) (Entered: 01/31/2002)
02/22/2002	28	Answer with affirmative defenses and counterclaim by CELCO PARTNERSHIP to Plaintiff's amended complaint , Certificate of Service. (ji) (Entered: 02/25/2002)
03/14/2002	29	MOTION BY PLAINTIFF RONALD A. KATZ TO STRIKE DEFENDANT CELCO PARTNERSHIP'S FOURTH AFFIRMATIVE DEFENSES , MEMORANDUM, CERTIFICATE OF SERVICE. (fdc) (Entered: 03/15/2002)
03/14/2002	30	Declaration of Gregory P. Miller in Support of PLAINTIFFS Motion to Strike DEFENDANT CELCO PARTNERSHIP'S Fourth Affirmative Defense (Inequitable Conduct) RONALD A. KATZ, Certificate of Service. (fdc) (Entered: 03/15/2002)
03/14/2002	31	PLAINTIFF RONALD A. KATZ TECHNOLOGY LICENSING, L.P.'S Reply to the CounterClaim of CELCO PARTNERSHIP d/b/a VERIZON WIRELESS, Certificate of Service. (fdc) (Entered: 03/15/2002)
03/19/2002	32	STIPULATION AND ORDER THAT RAKTL SHALL HAVE UNTIL AND INCLUDING 5/24/02 TO SERVE AND FILE WITH THE COURT ITS OPPOSITION TO VCI'S MOTION FOR SUMMARY JUDGMENT FOR NON-INFRINGEMENT; ETC. ( SIGNED BY JUDGE LOWELL A. REED

03/28/2002	33	JR. ) 3/19/02 ENTERED AND COPIES MAILED AND FAXED. (jl) (Entered: 03/19/2002)
		MOTION by DEFENDANT CELCO PARTNERSHIP FOR LEAVE TO FILE FIRST AMENDED ANSWER AND COUNTERCLAIMS, MEMORANDUM. (jl) (Entered: 03/29/2002)
03/28/2002	34	Opposition by DEFENDANT CELCO PARTNERSHIP to Plaintiff's MOTION TO STRIKE DEFENDANT CELCO PARTNERSHIP'S FOURTH AFFIRMATIVE DEFENSES OF INEQUITABLE CONDUCT. (jl) (Entered: 03/29/2002)
04/24/2002	35	ORDER THAT PLAINTIFF RONALD KATZ TECHNOLOGY LICENSING MOTION TO STRIKE THE FOURTH AFFIRMATIVE DEFENSE OF DEFENDANT CELCO PARTNERSHIP IS DENIED AS MOOT; THE UNOPPOSED MOTION OF CELCO FOR LEAVE TO AMEND ITS ANSWER AND COUNTERCLAIM IS GRANTED; ETC. ( SIGNED BY JUDGE LOWELL A. REED JR. ) 4/24/02 ENTERED AND COPIES MAILED. (jl) (Entered: 04/24/2002)
05/06/2002	36	MOTION by PLAINTIFF RONALD A. KATZ TO COMPEL DISCOVERY FROM DEFENDANT VERIZON COMMUNICATIONS INC., MEMORANDUM, CERTIFICATE OF COUNSEL, CERTIFICATE OF SERVICE, DECLARATION. (jl) (Entered: 05/07/2002)
05/08/2002	37	First Amended Answer with affirmative defenses and counterclaim by CELCO PARTNERSHIP, Certificate of Service. (jl) (Entered: 05/09/2002)
05/17/2002	38	ORDER THAT THIS CASE IS GOVERNED BY THE STANDING ORDER AND SPECIAL MANAGEMENT TRACK CASE MANAGEMENT POLICY OF JUDGE REED DATED 11/9/01, WITH WHICH ALL PARTIES HAVE BEEN SERVED, ALL PARTIES SHALL APPEAR FOR A CONFERENCE WITH THE UNDERSIGNED ON THE 3RD DAY OF JUNE, 2002 AT 10:00 IN COURTROOM 11-A; ETC. ( SIGNED BY JUDGE LOWELL A. REED JR. ) 5/17/02 ENTERED AND COPIES MAILED. (jl) (Entered: 05/17/2002)
05/20/2002	39	Memorandum by PLAINTIFF RONALD A. KATZ in support of its MOTION TO STRIKE DEFENDANT CELCO PARTNERSHIP'S FOURTH AFFIRMATIVE DEFENSES, Certificate of Service. (jl) (Entered: 05/21/2002)
05/20/2002	40	Declaration of Michael Morse, Esquire, in support of Plaintiff Ronald A. Katz Technology Licensing, L.P. motion to strike Defendant Celco Partnership's Inequitable Conduct Defense, Certificate of Service. (jl) (Entered: 05/21/2002)
05/21/2002	41	STIPULATION AND ORDER THAT THE TIME FOR VERIZON TO ANSWER AND TO FILE ITS BRIEF IN OPPOSITION TO PLAINTIFF'S MOTION TO COMPEL IS HEREBY EXTENDED UNTIL 5/22/02; ETC. ( SIGNED BY JUDGE LOWELL A. REED JR. ) 5/21/02 ENTERED AND COPIES MAILED. (jl) (Entered: 05/21/2002)
05/22/2002	42	Opposition by DEFENDANT, VERIZON COMMUNICATIO to Plaintiff's motion to compel discovery, Certificate of Service. (jl) (Entered: 05/23/2002)
05/28/2002	43	Appearance of TIMOTHY D. KATSIFF for DEFENDANT, VERIZON COMMUNICATIO, Certificate of Service. (jl) (Entered: 05/28/2002)
05/29/2002	44	Preliminary Report of PLAINTIFF RONALD A. KATZ, certificate of service. (jl) (Entered: 05/30/2002)
05/30/2002	45	Response by PLAINTIFF RONALD A. KATZ in support of MOTION TO COMPEL DISCOVERY, Certificate of Service. (jl) (Entered: 05/31/2002)
06/03/2002	46	Memorandum by DEFENDANT CELCO PARTNERSHIP in opposition to Plaintiff's motion to strike Celco Partnership's fourth affirmative defenses of Inequitable Conduct, Certificate of Service. (jl) (Entered: 06/04/2002)
06/04/2002	47	ORDER THAT THE NEXT PRETRIAL CONFERENCE IS SCHEDULED FOR 7/16/02 AT 10:00 IN COURTROOM 11A; ETC. ( SIGNED BY JUDGE LOWELL A. REED JR. ) 6/4/02 ENTERED AND COPIES MAILED. (jl) (Entered: 06/04/2002)
06/04/2002	48	STIPULATION AND ORDER THAT THE TIME FOR RAKTL TO FILE ITS OPPOSITION TO VCJ'S MOTION FOR SUMMARY JUDGMENT OF NON-INFRINGEMENT BE EXTENDED TO 7/1/02; ETC. ( SIGNED BY JUDGE LOWELL A. REED JR. ) 6/4/02 ENTERED AND COPIES MAILED. (jl) (Entered: 06/04/2002)
06/06/2002	49	Transcript of 6/3/02 Conference. (jl) (Entered: 06/06/2002)
06/11/2002	50	Reply by PLAINTIFF RONALD A. KATZ in support of their MOTION TO STRIKE DEFENDANT CELCO PARTNERSHIP'S FOURTH



06/13/2002	51	AFFIRMATIVE DEFENSES , Certificate of Service. (jl) (Entered: 06/12/2002)
		ORDER THAT THE TIME TO SUBMIT ITEMS 1 THROUGH 3 SET FORTH IN THIS COURT'S 6/3/02 ORDER IS EXTENDED UNTIL 6/20/02 AT 4:00; ETC. ( SIGNED BY JUDGE LOWELL A. REED JR. ) 6/13/02 ENTERED AND COPIES MAILED. (jl) (Entered: 06/13/2002)
07/16/2002	52	STIPULATED PROTECTIVE ORDER WITH COURT APPROVAL RE: CERTAIN FACTS, ETC. ( SIGNED BY JUDGE LOWELL A. REED JR. ) 7/16/02 ENTERED AND COPIES MAILED. (jl) (Entered: 07/16/2002)
07/16/2002	--	Certain documents governed by Protective Order. (jl) (Entered: 07/16/2002)
07/16/2002	53	Minute entry: ESR, 7/16/02 Pretrial Conference. Judge addresses counsel. Judge and Counsel conduct pretrial conference. (jl) (Entered: 07/16/2002)
07/16/2002	54	ORDER THAT PLAINTIFF RONALD KATZ TECHNOLOGY MOTION TO STRIKE THE FOURTH AFFIRMATIVE DEFENSE OF INEQUITABLE CONDUCT ASSERTED BY DEFENDANT CELCO PARTNERSHIP DBA VERIZON WIRELESS IS GRANTED IN PART AND DENIED IN PART; ETC. ( SIGNED BY JUDGE LOWELL A. REED JR. ) 7/16/02 ENTERED AND COPIES MAILED , (jl) (Entered: 07/16/2002)
07/17/2002	55	STIPULATION AND ORDER THAT THE ORDER DATED 6/4/02 IS HEREBY VACATED. THE TIME FOR WHICH PLAINTIFF RAKFL SHALL RESPOND TO THE MOTION OF DEFENDANT VCI FOR SUMMARY JUDGMENT WILL BE DETERMINED BY THE TRANSFEREE JUDGE. NO LATER THAN 7/17/02 AT 12:00 PLAINTIFF RAKFL AND DEFENDANT VC SHALL SUBMIT TO THIS COURT IN CHAMBERS A LIST OF REMAINING INDIVIDUALS WHO VCI WILL PRODUCE FOR DEPOSITIONS TO BE TAKEN IN NEW YORK CITY TO 8/31/02; ETC. ( SIGNED BY JUDGE LOWELL A. REED JR. ) 7/17/02 ENTERED AND COPIES MAILED. (jl) (Entered: 07/17/2002)
07/18/2002	56	ORDER THAT THE FOLLOWING INDIVIDUALS WILL BE SO DEPOSED: THOMAS TAUKE, ALBIN MOSCHNER AND WILLIAM BALL. IT IS FURTHER ORDERED THAT NO LATER THAN 8/13/02 AT 12:00 COUNSEL SHALL NOTIFY THIS COURT IN CHAMBERS AS TO WHETHER OR NOT THE CONFLICT ISSUES CONCERNING THE SPECIAL MASTER HAVE BEEN RESOLVED; ETC. ( SIGNED BY JUDGE LOWELL A. REED JR. ) 7/18/02 ENTERED AND COPIES MAILED. (jl) (Entered: 07/18/2002)
07/19/2002	57	Transcript ESR, 7/16/02, Case management conference (jl) (Entered: 07/19/2002)
07/23/2002	58	ORDER THAT THIS CASE IS REASSIGNED FROM THE CALENDAR OF JUDGE LOWELL A. REED JR. TO THE CALENDAR OF JUDGE BRUCE W. KAUFFMAN . ( SIGNED BY CLERK OF COURT MICHAEL E. KUNZ ) 7/23/02 ENTERED AND COPIES MAILED , (jl) (Entered: 07/23/2002)
07/26/2002	59	Entry of Appearance of ARLIN M. ADAMS for DEFENDANT VERIZON COMMUNICATIONS, INC. (np) (Entered: 07/29/2002)
07/26/2002	60	Memorandum by PLAINTIFF RONALD A. KATZ in Support of PLAINTIFF'S Proposed Scheduling Order, Declaration, Certificate of Service. (np) (Entered: 07/29/2002)
07/26/2002	61	Exhibits by PLAINTIFF RONALD A. KATZ to Declaration of Michael A. Morse, Esquire in Support of PLAINTIFF RONALD A. KATZ TECHNOLOGY LICENSING L.P.'S Proposed Scheduling Order. (Filed Under Seal) (np) (Entered: 07/29/2002)
07/29/2002	62	ORDER THAT THIS CASE IS REASSIGNED FROM THE CALENDAR OF JUDGE BRUCE W. KAUFFMAN TO THE CALENDAR OF JUDGE CLARENCE C. NEWCOMER ( SIGNED BY CLERK OF COURT MICHAEL E. KUNZ ) 7/30/02 ENTERED AND COPIES MAILED. (jl) (Entered: 07/30/2002)
07/31/2002	63	ORDER THAT A STATUS CONFERENCE IN THE ABOVE CASE IS SCHEDULED FOR 9/3/02 AT 3:30; ETC. ( SIGNED BY JUDGE CLARENCE C. NEWCOMER ) 8/1/02 ENTERED AND COPIES MAILED AND FAXED BY CHAMBERS. (jl) (Entered: 08/01/2002)
08/09/2002	64	Memorandum by DEFENDANT VERIZON COMMUNICATION in support of its Proposed Scheduling Order and in Opposition to Plaintiff's Proposed Scheduling Order, Declaration, Certificate of Service. (rv) (Entered: 08/12/2002)
08/09/2002	--	Memorandum by DEFENDANT , VERIZON COMMUNICATIO in opposition to PLAINTIFF'S proposed scheduling order, Declaration, Certificate of Service. (See Paper No. 64). (rv) (Entered: 08/12/2002)
08/09/2002	65	Memorandum by DEFENDANT CELCO PARTNERSHIP in support of CELCO'S proposed scheduling order and in opposition to PLFF'S

08/19/2002	66	proposed scheduling order, declaration, Certificate of Service. (fb) (Entered: 08/12/2002)
09/03/2002	67	UNOPPOSED MOTION BY PLAINTIFF RONALD A. KATZ TO EXTEND CERTAIN DEADLINES , CERTIFICATE OF SERVICE. (dt) (Entered: 08/20/2002)
09/04/2002	68	MOTION by PLAINTIFF RONALD A. KATZ TO RESCHEDULE THE RULE 16 CONFERENCE , MEMORANDUM, CERTIFICATE OF SERVICE. (jl) (Entered: 09/04/2002)
09/04/2002	69	MOTION by PLAINTIFF RONALD A. KATZ FOR ADMISSION OF RODERICK R. MCKELVIE, ESQUIRE PRO HAC VICE , CERTIFICATE OF SERVICE. (jl) (Entered: 09/05/2002)
09/05/2002	70	Appearance of RODERICK R. MCKELVIE for PLAINTIFF RONALD A. KATZ , Certificate of Service. (withdrawal of appearance of ROBERT HASLAM). (jl) (Entered: 09/05/2002)
09/06/2002	71	Response by DEFENDANT . VERIZON COMMUNICATIO to PLAINTIFF RONALD KATZ MOTION TO RESCHEDULE THE RULE 16 CONFERENCE , Certificate of Service. (jl) (Entered: 09/05/2002)
09/10/2002	72	DEFENDANT CELCO PARTNERSHIP opposition to Plaintiff's motion to reschedule Rule 16 Conference, Certificate of Service. (jl) (Entered: 09/06/2002)
09/11/2002	73	ORDER THAT THE STATUS CONFERENCE IN THE ABOVE CASE IS RESCHEDULED TO 9/24/02 AT 11:15, ETC. ( SIGNED BY JUDGE CLARENCE C. NEWCOMER ) 9/10/02 ENTERED AND COPIES MAILED AND FAXED BY CHAMBERS. (jl) (Entered: 09/10/2002)
09/11/2002	74	ORDER THAT TO AID THE COURT IN DETERMINING ANY POSSIBLE CONFLICTS EACH PARTY TO THIS CASE SUBMITS A DISCLOSURE STATEMENT INCLUDING THE FOLLOWING: ALL OF THE PARENT CORPORATIONS OF THE PARTY; ALL PUBLICLY HELD CORPORATIONS THAT OWN TEN PERCENT OR MORE OF THE STOCK OF THE PARTY; ALL WHOLLY OWNED SUBSIDIARIES OF THE PARTY; ALL PUBLICLY HELD CORPORATIONS IN WHICH THE PARTY OWNS TEN PERCENT OR MORE OF THE STOCK; ETC. ( SIGNED BY JUDGE CLARENCE C. NEWCOMER ) 9/11/02 ENTERED AND COPIES MAILED AND FAXED BY THE CHAMBERS . (jl) (Entered: 09/11/2002)
09/17/2002	75	ORDER THAT PLAINTIFF'S MOTION FOR ADMISSION OF RODERICK R. MCKELVIE, ESQUIRE PRO HAC VICE IS GRANTED; ETC. ( SIGNED BY JUDGE CLARENCE C. NEWCOMER ) 9/11/02 ENTERED AND COPIES MAILED AND FAXED BY CHAMBERS. (jl) (Entered: 09/11/2002)
09/18/2002	76	Disclosure Statement by PLAINTIFF RONALD A. KATZ, Certificate of Service. (dt) (Entered: 09/17/2002)
09/20/2002	77	Disclosure Statement by DEFENDANT CELCO PARTNERSHIP , Certificate of Service. (jl) (Entered: 09/18/2002)
09/24/2002	78	ORDER THAT THE PARTIES SUBMIT TO THIS COURT A PROPOSED AGENDA FOR THE STATUS CONFERENCE SCHEDULED FOR 9/24/02 AT 11:15, ETC. ( SIGNED BY JUDGE CLARENCE C. NEWCOMER ) 9/20/02 ENTERED AND COPIES MAILED AND FAXED BY CHAMBERS. (jl) (Entered: 09/20/2002)
09/25/2002	79	MOTION BY PLAINTIFF RONALD A. KATZ FOR CHRISTOPHER J. HARNETT, ESQUIRE TO APPEAR PRO HAC VICE , CERTIFICATE OF SERVICE. (dt) (Entered: 09/25/2002)
10/01/2002	80	ORDER THAT DISCOVERY SHALL CONCLUDE ON 2/4/03; ALL DISPOSITIVE MOTIONS ARE DUE NO LATER THAN 2/11/03; A FINAL PRETRIAL CONFERENCE WILL BE HELD ON 3/3/03 AT 3:15; TRIAL OF THIS MATTER SHALL COMMENCE ON 4/1/03 AT 9:15, ETC. ( SIGNED BY JUDGE CLARENCE C. NEWCOMER ) 9/25/02 ENTERED AND COPIES MAILED AND FAXED BY CHAMBERS. (jl) (Entered: 09/25/2002)
10/08/2002	81	ORDER THAT PLAINTIFFS MOTION FOR CHRISTOPHER J. HARNETT, ESQUIRE TO APPEAR PRO HAC VICE IS GRANTED; ETC. ( SIGNED BY JUDGE CLARENCE C. NEWCOMER ) 10/1/02 ENTERED AND COPIES MAILED AND FAXED BY CHAMBERS. (jl) (Entered: 10/01/2002)
		Second Amended Answer with affirmative defenses and counterclaim by CELCO PARTNERSHIP to amended complaint , Certificate of Service. (jl) (Entered: 10/08/2002)



10/09/2002	82	Appearance of ROBERT HASLAM for PLAINTIFF RONALD A. KATZ . (jl) (Entered: 10/09/2002)
10/11/2002	83	Transcript SUZANNE WHITE, 9/24/02, In chambers Conference. (jl) (Entered: 10/11/2002)
10/11/2002	84	MOTION by DEFENDANT , VERIZON COMMUNICATIO FOR ENTRY OF A PROTECTIVE ORDER RE RONALD A. KATZ TECHNOLOGY LICENSING, L.P.'S RENEWED NOTICE OF DEPOSITION OF LAWRENCE T. BABBio , MEMORANDUM, CERTIFICATE OF SERVICE,EXHIBITS. (jl) (Entered: 10/15/2002)
10/15/2002	85	MOTION by PLAINTIFF RONALD A. KATZ FOR ADMISSION OF GENE LEE, ESQUIRE, PRO HAC VICE , CERTIFICATE OF SERVICE. (jl) (Entered: 10/15/2002)
10/15/2002	86	Praecipe by DEFENDANT VERIZON COMMUNICATIO to Substitute Signature page in motion of Defendant VERIZON COMMUNICATIONS, INC. for entry of a protective order re Ronald Katz Technology Licensing, L.P., renewed notice of deposition of LAWRENCE T. BABBio, CERTIFICATE OF SERVICE. (jl) (Entered: 10/16/2002)
10/16/2002	87	ORDER THAT THE FINAL PRETRIAL CONFERENCE IS RESCHEDULED FROM 3/3/03 TO 3/25/03 AT 3:15 P.M.; ETC. ( SIGNED BY JUDGE CLARENCE C. NEWCOMER ) 10/16/02 ENTERED AND COPIES MAILED AND FAXED BY CHAMBERS. (jl) (Entered: 10/16/2002)
10/16/2002	88	STIPULATION AND ORDER THAT PLAINTIFF RAKTL AND DEFENDANT VCI AND CELCO AGREE THAT: CELCO MAY FILE THE ATTACHED SECOND AMENDED ANSWER AND COUNTERCLAIMS AND NO LATER THAN TEN DAYS AFTER CELCO FILES ITS SECOND AMENDED ANSWER RAKTL MAY FILE A RESPONSE AS PERMITTED BY RULES 7 AND 15 (a) OF THE FEDERAL RULES OF CIVIL PROCEDURE; ETC. ( SIGNED BY JUDGE CLARENCE C. NEWCOMER ) 10/16/02 ENTERED AND COPIES MAILED AND FAXED BY CHAMBERS. (jl) (Entered: 10/16/2002)
10/16/2002	89	MEMORANDUM AND ORDER THAT PLAINTIFF'S MOTION TO COMPEL DISCOVERY IS GRANTED IN PART AND DENIED IN PART, PLAINTIFF'S RESPONSE BRIEF TO VCI'S SUMMARY JUDGMENT MOTION SHALL BE DUE NO LATER THAN 11/4/02 . ORAL ARGUMENT ON SAID MOTION SHALL BE HELD ON 11/19/02 AT 9:30 IN COURTROOM 13A; ETC. ( SIGNED BY JUDGE CLARENCE C. NEWCOMER ) 10/16/02 ENTERED AND COPIES MAILED BY CHAMBERS. (jl) (Entered: 10/16/2002)
10/16/2002	90	MOTION by MOVANT VERIZON PENNSYLVANIA, INC. TO INTERVENE , MEMORANDUM, EXHIBITS, CERTIFICATE OF SERVICE. (Complaint attached) (mbh) Modified on 10/17/2002 (Entered: 10/17/2002)
10/17/2002	91	ORDER THAT PLAINTIFF'S MOTION FOR ADMISSION OF GENE LEE, ESQUIRE, PRO HAC VICE IS GRANTED; ETC. (Attorney: GENE W. LEE) ( SIGNED BY JUDGE CLARENCE C. NEWCOMER ) 10/17/02 ENTERED AND COPIES MAILED AND FAXED BY CHAMBERS. (jl) (Entered: 10/17/2002)
10/18/2002	92	Second Amended answer with affirmative defenses and counterclaim by CELCO PARTNERSHIP to Plaintiff's amended complaint, Certificate of Service. (jl) (Entered: 10/18/2002)
10/23/2002	93	MOTION by PLAINTIFF RONALD A. KATZ FOR ADMISSION OF JESSE J. JENNER; WILLIAM MCCABE; SONE DE; REBECCA GIBBS; LYNEET NOLITT; JEFFREY KAPLAN; JEFFREY DAVID BLAKE; BRYAN VOGEL PRO HAC VICE , AFFIDAVIT, CERTIFICATE OF SERVICE. (jl) (Entered: 10/23/2002)
10/23/2002	94	MOTION by PLAINTIFF RONALD A. KATZ FOR LEAVE TO FILE SECOND AMENDED COMPLAINT , MEMORANDUM, CERTIFICATE OF SERVICE. (second amended complaint attached). (jl) (Entered: 10/24/2002)
10/24/2002	95	Status Report of PLAINTIFF RONALD A. KATZ Concerning Preliminary Identification of Representative Claims, Certificate of Service. (jl) (Entered: 10/25/2002)
10/29/2002	96	MOTION by DEFENDANT CELCO PARTNERSHIP FOR A PROTECTIVE ORDER PREVENTING PLAINTIFF KATZ TECHNOLOGY FROM DEPOSING DENNIS STRIGL (CELCO'S PRESIDENT AND CEO) , MEMORANDUM, CERTIFICATE OF SERVICE. (jl) (Entered: 10/30/2002)
10/30/2002	97	MOTION by PLAINTIFF RONALD A. KATZ FOR ADMISSION OF SHAWN E. McDONALD, ESQUIRE, PRO HAC VICE ,CERTIFICATE OF SERVICE. (jl) (Entered: 10/30/2002)
10/30/2002	98	ORDER THAT PLAINTIFF'S MOTION FOR ADMISSION OF JESSE J. JENNER; WILLIAM MCCABE; SONE DE; REBECCA GIBBS; LYNEET

10/30/2002	99	NOLITTI, JEFFREY KAPLAN; JEFFREY DAVID BLAKE, BRYAN VOGEL PRO HAC VICE IS GRANTED; ETC. (Attorney: JESSE J. JENNER, WILLIAM J. MCCABE, SONA DE, REBECCA GIBBS, LYNETTE NOBLITT, JONATHAN M. KAPLAN, JEFFREY DAVID BLAKE, BRYAN J. VOGEL) ( SIGNED BY JUDGE CLARENCE C. NEWCOMER ) 10/30/02 ENTERED AND COPIES MAILED . (jl) (Entered: 10/30/2002)
10/30/2002	100	MOTION by PLAINTIFF RONALD A. KATZ TO SEAL EXHIBIT A TO MOTION FOR A PROTECTIVE ORDER PREVENTING PLAINTIFF KATZ TECHNOLOGY FROM DEPOSING DENNIS STRIGL (CELCO'S PRESIDENT AND CEO) CERTIFICATE OF SERVICE. (jl) (Entered: 10/31/2002)
11/01/2002	101	Memorandum by PLAINTIFF RONALD A. KATZ in opposition to VERIZON PENNSYLVANIA MOTION TO INTERVENE, Certificate of Service. (jl) (Entered: 10/31/2002)
11/01/2002	102	ORDER THAT DEFENDANT CELCO PARTNERSHIP'S MOTION TO SEAL EXHIBIT A TO MOTION FOR A PROTECTIVE ORDER PREVENTING PLAINTIFF KATZ TECHNOLOGY FROM DEPOSING DENNIS STRIGL (CELCO'S PRESIDENT AND CEO) IS GRANTED; ETC. ( SIGNED BY JUDGE CLARENCE C. NEWCOMER ) 11/1/02 ENTERED AND COPIES MAILED AND FAXED BY CHAMBERS. (Exhibit A attached and placed under seal). (jl) (Entered: 11/01/2002)
11/01/2002	103	ORDER THAT PLAINTIFF'S MOTION TO EXTEND CERTAIN DEADLINES IS DISMISSED AS MOOT; ETC. ( SIGNED BY JUDGE CLARENCE C. NEWCOMER ) 11/1/02 ENTERED AND COPIES MAILED AND FAXED BY CHAMBERS. (jl) (Entered: 11/01/2002)
11/01/2002	104	Plaintiff RONALD KATZ TECHNOLOGY LICENSING, L.P. reply with affirmative Defenses to second amended counterclaim of CELCO PARTNERSHIP d/b/a VERIZON WIRELESS, Certificate of Service. (jl) (Entered: 11/04/2002)
11/04/2002	105	MOTION by PLAINTIFF RONALD A. KATZ FOR ADMISSION OF JAMES E. HOPENFELD, ESQUIRE PRO HAC VICE , CERTIFICATE OF SERVICE. (jl) (Entered: 11/04/2002)
11/04/2002	106	MOTION by PLAINTIFF RONALD A. KATZ TO SEVER AND STAY CERTAIN OF ITS CLAIMS AGAINST VERIZON COMMUNICATIONS INC. ,OR ALTERNATIVELY TO DISMISS CLAIMS AGAINST VERIZON COMMUNICATIONS, INC. WITHOUT PREJUDICE , MEMORANDUM, CERTIFICATE OF SERVICE. (jl) (Entered: 11/05/2002)
11/04/2002	--	Memorandum by PLAINTIFF RONALD A. KATZ in opposition to VERIZON COMMUNICATIONS, INC.'S MOTION FOR SUMMARY JUDGMENT OF NON-INFRINGEMENT, Certificate of Service. (filed under seal). (jl) (Entered: 11/05/2002)
11/04/2002	107	Certain documents governed by Protective Order filed in yellow envelope. (jl) (Entered: 11/05/2002)
11/05/2002	108	Declaration by PLAINTIFF RONALD A. KATZ attorney GREGORY MILLER AND EXHIBITS A-V, Certificate of Service. (filed under seal). (jl) (Entered: 11/05/2002)
11/06/2002	109	MOTION by DEFENDANT , VERIZON COMMUNICATIO FOR ADMISSION PRO HAC VICE OF MARK WEGENER, WILLIAM ROOKLIDGE, KEVIN BAER AND MATTHEW MOORE CERTIFICATE OF SERVICE. (jl) (Entered: 11/05/2002)
11/06/2002	110	Memorandum by DEFENDANT CELCO PARTNERSHIP in opposition to PLAINTIFF KATZ TECHNOLOGY'S MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT , Certificate of Service. (jl) (Entered: 11/07/2002)
11/07/2002	111	Memorandum by DEFENDANT CELCO PARTNERSHIP in opposition to PLAINTIFF'S MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT , Certificate of Service. (jl) (Entered: 11/07/2002)
11/08/2002	112	ORDER THAT THE MOTION TO SEAL EXHIBIT C TO THE REPLY MEMORANDUM IN SUPPORT OF VERIZON PENNSYLVANIA INC.'S MOTION TO INTERVENE IS GRANTED. IT IS HEREBY ORDERED THAT EXHIBIT C IS SEALED AND SHALL BE TREATED AS SUCH BY ALL COUNSEL AND/OR PARTIES, ETC. ( SIGNED BY JUDGE CLARENCE C. NEWCOMER ) 11/8/02 ENTERED AND COPIES MAILED AND FAXED BY CHAMBERS. (jl) (Entered: 11/08/2002)
11/08/2002	113	EXHIBIT C TO REPLY MEMORANDUM IN SUPPORT OF MOTION OF VERIZON PENNSYLVANIA, INC. TO INTERVENE. (filed under seal). (jl) (Entered: 11/08/2002)
		ORDER THAT PLAINTIFF'S MOTION FOR ADMISSION OF JAMES E. HOPENFELD, ESQUIRE PRO HAC VICE IS GRANTED; ETC. (Attorney: JAMES E. HOPENFELD) ( SIGNED BY JUDGE CLARENCE C. NEWCOMER ) 11/8/02 ENTERED AND COPIES MAILED AND FAXED BY CHAMBERS. (jl) (Entered: 11/08/2002)

11/08/2002	114	ORDER THAT PLAINTIFF'S MOTION FOR ADMISSION PRO HAC VICE OF MARK WEGENER, WILLIAM ROOKLIDGE, KEVIN BAER AND MATTHEW MOORE IS GRANTED; ETC. (Attorney: MARK D. WEGENER, WILLIAM C. ROOKLIDGE, KEVIN G. BAER, MATTHEW J. MOORE) ( SIGNED BY JUDGE CLARENCE C. NEWCOMER ) 11/8/02 ENTERED AND COPIES MAILED AND FAXED BY CHAMBERS. (jl) (Entered: 11/08/2002)
11/12/2002	115	MOTION by DEFENDANT , VERIZON COMMUNICATIO TO COMPEL ANSWERS TO INTERROGATORIES WITH REQUEST FOR EXPEDITED TREATMENT , MEMORANDUM, CERTIFICATE OF COUNSEL, CERTIFICATE OF SERVICE. (jl) (Entered: 11/13/2002)
11/12/2002	116	Reply by DEFENDANT , VERIZON COMMUNICATIO to Plaintiff's opposition to SUMMARY JUDGMENT OF NON-INFRINGEMENT, Certificate of Service. (jl) (Entered: 11/13/2002)
11/12/2002	117	Memorandum by PLAINTIFF RONALD A. KATZ in opposition to CELCO'S MOTION FOR A PROTECTIVE ORDER PREVENTING PLAINTIFF KATZ TECHNOLOGY FROM DEPOSING DENNIS STRIGL (CELCO'S PRESIDENT AND CEO) , Certificate of Service. (jl) (Entered: 11/13/2002)
11/18/2002	118	Reply by DEFENDANT CELCO PARTNERSHIP in support of its MOTION FOR A PROTECTIVE ORDER PREVENTING PLAINTIFF KATZ TECHNOLOGY FROM DEPOSING DENNIS STRIGL (CELCO'S PRESIDENT AND CEO), Certificate of Service. (jl) (Entered: 11/19/2002)
11/18/2002	119	DEFENDANT VERIZON COMMUNICATIONS, INC.'S OPPOSITION TO PLAINTIFF'S MOTION TO SEVER AND STAY OR DISMISS WITHOUT PREJUDICE, CERTIFICATE OF SERVICE. (jl) (Entered: 11/19/2002)
11/22/2002	120	Transcript SIDNEY ROTHSCHILD, 11/19/02 Hearing. (jl) (Entered: 11/22/2002)
11/25/2002	121	ORDER THAT PLAINTIFF'S MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT IS GRANTED; ETC. ( SIGNED BY JUDGE CLARENCE C. NEWCOMER ) 11/25/02 ENTERED AND COPIES MAILED AND FAXED BY CHAMBERS. (jl) (Entered: 11/25/2002)
11/25/2002	122	Second Amended complaint by PLAINTIFF RONALD A. KATZ, jury demand. (jl) (Entered: 11/25/2002)
11/25/2002	123	MOTION by PLAINTIFF RONALD A. KATZ FOR ADMISSION OF WILLIAM Z. NAKHLEH, ESQUIRE PRO HAC VICE ,CERTIFICATE OF SERVICE. (jl) (Entered: 11/26/2002)
11/26/2002	124	Status Report of PLAINTIFF RONALD A. KATZ Concerning Preliminary Identification Preliminary Identification of 23 Representative claims, Certificate of Service. (jl) (Entered: 11/27/2002)
11/26/2002	125	Memorandum by PLAINTIFF RONALD A. KATZ in opposition to Verizon's MOTION TO COMPEL ANSWERS TO INTERROGATORIES NOS. 1 AND 6, Certificate of Service. (jl) (Entered: 11/27/2002)
11/26/2002	126	Declaration of JAMES E. HOPENFELD, Certificate of Service. (jl) (Entered: 11/27/2002)
12/02/2002	127	MOTION by DEFENDANT , VERIZON COMMUNICATIO FOR LEAVE TO FILE REPLY BRIEF IN SUPPORT OF ITS MOTION TO COMPEL ANSWERS TO INTERROGATORIES , MEMORANDUM, CERTIFICATE OF SERVICE. (reply brief attached). (jl) (Entered: 12/03/2002)
12/02/2002	128	MOTION by PLAINTIFF RONALD A. KATZ TO COMPEL DISCOVERY FROM DEFENDANT CELCO PARTNERSHIP , MEMORANDUM, CERTIFICATE OF COUNSEL, CERTIFICATE OF SERVICE, DECLARATION. (jl) (Entered: 12/03/2002)
12/02/2002	129	Third Amended answer with affirmative defenses and counterclaim of CELCO PARTNERSHIP TO PLAINTIFF'S SECOND AMENDED COMPLAINT, Certificate of Service. (jl) (Entered: 12/03/2002)
12/02/2002	130	ORDER THAT DEFENDANT VERIZON COMMUNICATIONS, INC. MOTION FOR A PROTECTIVE ORDER RE: RONALD A. KATZ TECHNOLOGY LICENSING, L.P.'S RENEWED NOTICE OF DEPOSITION OF LAWRENCE T. BABBITO, IS GRANTED. IT IS FURTHER ORDERED THAT LAWRENCE T. BABBITO SHALL NOT BE REQUIRED TO GIVE ANY DEPOSITION IN THIS MATTER WITHOUT A FURTHER ORDER OF THIS COURT, ETC. ( SIGNED BY JUDGE CLARENCE C. NEWCOMER ) 12/3/02 ENTERED AND COPIES MAILED AND FAXED BY CHAMBERS ON 12/2/02. (jpd) (Entered: 12/03/2002)
12/03/2002	131	ORDER THAT DEFENDANT VERIZON COMMUNICATIONS MOTION TO COMPEL ANSWERS TO INTERROGATORIES NUMBERS 1 AND 6 IS GRANTED; ETC. ( SIGNED BY JUDGE CLARENCE C. NEWCOMER ) 12/3/02 ENTERED AND COPIES MAILED AND FAXED BY

12/03/2002	132	CHAMBERS. (jl) (Entered: 12/03/2002)
12/06/2002	133	Answer with affirmative defenses and counterclaim of VERIZON COMMUNICATIONS, INC. TO PLAINTIFF'S SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT, Certificate of Service. (jl) (Entered: 12/04/2002)
12/06/2002	134	ORDER THAT GREGORY MILLER'S MOTION FOR ADMISSION OF WILLIAM Z. NAKHLEH, ESQUIRE PRO HAC VICE IS GRANTED; ETC. (Attorney: WILLIAM Z. NAKHLEH) ( SIGNED BY JUDGE CLARENCE C. NEWCOMER ) 12/6/02 ENTERED AND COPIES MAILED AND FAXED BY CHAMBERS. (jl) (Entered: 12/06/2002)
12/06/2002	135	Joint Claim Statement by PLAINTIFF RONALD A. KATZ, DEFENDANT , VERIZON COMMUNICATIO, DEFENDANT CELCO PARTNERSHIP (jl) (Entered: 12/09/2002)
12/09/2002	136	DEFENDANT CELCO PARTNERSHIP DISCLOSURE AND AGREEMENT OF MR. RAYMOND SIMS under 13 (D) and 14 of the Protective Order, Certificate of Service. (jl) (Entered: 12/10/2002)
12/09/2002	137	DEFENDANT CELCO PARTNERSHIP DISCLOSURE AND AGREEMENT of MR. RICHARD DONALDSON under 13 (D) AND 14 OF THE PROTECTIVE ORDER, Certificate of Service. (jl) (Entered: 12/10/2002)
12/11/2002	138	MOTION by DEFENDANT , VERIZON COMMUNICATIO TO EXCLUDE FROM CLAIM CONSTRUCTION PROCESS CLAIMS FROM PLAINTIFF DID NOT IDENTIFY IN ITS 10/24/02 SUBMISSION TO THE COURT , MEMORANDUM, CERTIFICATE OF SERVICE. (jl) (Entered: 12/12/2002)
12/13/2002	139	Corrected Claim Construction Outline by PLAINTIFF RONALD A. KATZ TECHNOLOGY LICENSING, L.P., Certificate of Service. (mbh) (Entered: 12/16/2002)
12/16/2002	140	Plaintiff RONALD KATZ TECHNOLOGY Reply to third amended counterclaim of CELCO PARTNERSHIP, CERTIFICATE OF SERVICE. (jl) (Entered: 12/17/2002)
12/16/2002	141	RONALD A. KATZ to answer and counterclaim of VERIZON COMMUNICATIONS, INC. to Plaintiff's second amended complaint for patent infringement, Certificate of Service. (jl) (Entered: 12/17/2002)
12/17/2002	142	MOTION by PLAINTIFF RONALD A. KATZ FOR LEAVE TO TAKE ADDITIONAL DEPOSITIONS PURSUANT TO FED.R.CIV.30 (a)(2)(A) , MEMORANDUM, CERTIFICATE OF SERVICE. (jl) (Entered: 12/17/2002)
12/17/2002	143	MOTION by PLAINTIFF RONALD A. KATZ TO SUPPLEMENT THE COURT'S 9/24/02 SCHEDULING ORDER TO SET FORTH DATES FOR EXCHANGE OF EXPERT REPORTS AND DEPOSITIONS , MEMORANDUM, CERTIFICATE OF SERVICE. (jl) (Entered: 12/18/2002)
12/18/2002	144	ORDER THAT DEFENDANT VERIZON COMMUNICATIONS INCORPORATED MOTION FOR SUMMARY JUDGMENT OF NON-INFRINGEMENT IS GRANTED. JUDGMENT IS ENTERED IN FAVOR OF DEFENDANT VCI AND AGAINST THE PLAINTIFF, ETC. ( SIGNED BY JUDGE CLARENCE C. NEWCOMER ) 12/18/02 ENTERED AND COPIES MAILED . (jl) (Entered: 12/18/2002)
12/18/2002	145	ORDER THAT PLAINTIFF'S MOTION TO SEVER AND STAY CERTAIN OF ITS CLAIMS AGAINST VERIZON COMMUNICATIONS INC. OR TO DISMISS CLAIMS AGAINST VERIZON COMMUNICATIONS, INC. WITHOUT PREJUDICE IS DENIED AS MOOT. SUMMARY JUDGMENT HAS BEEN GRANTED IN FAVOR OF VERIZON COMMUNICATIONS INCORPORATED. THUS, ALL OF THE CLAIMS WHICH THIS MOTION ADDRESSES ARE NO LONGER PART OF THIS LITIGATION; ETC. ( SIGNED BY JUDGE CLARENCE C. NEWCOMER ) 12/18/02 ENTERED AND FAXED BY CHAMBERS. (jl) (Entered: 12/18/2002)
12/18/2002	146	ORDER THAT VERIZON OF PENNSYLVANIA MOTION TO INTERVENE IS DENIED; ETC. ( SIGNED BY JUDGE CLARENCE C. NEWCOMER ) 12/18/02 ENTERED AND COPIES MAILED AND FAXED BY CHAMBERS. (jl) (Entered: 12/18/2002)
12/20/2002	147	Joinder by DEFENDANT CELCO PARTNERSHIP in motion to exclude claims, Certificate of service. (jl) (Entered: 12/19/2002)
12/20/2002	148	Petition of PLAINTIFF RONALD A. KATZ to Voluntarily withdraw its motion to supplement the court's 9/24/02 Scheduling Order to set forth dates for exchange of expert reports and depositions , Certificate of Service. (jl) (Entered: 12/20/2002)
12/20/2002	149	Brief by DEFENDANT CELCO PARTNERSHIP, Certificate of Service, Exhibits, Declarations. (jl) Modified on 12/23/2002 (Entered: 12/23/2002)



12/20/2002	149	BINDER OF KATZ PATENTS THAT CONTAIN SELECTED REPRESENTATIVE CLAIMS. (jl) (Entered: 12/23/2002)
12/20/2002	150	PLAINTIFF RONALD A. KATZ CLAIM CONSTRUCTION BRIEF, Certificate of Service. (jl) (Entered: 12/23/2002)
12/20/2002	151	Memorandum by PLAINTIFF RONALD A. KATZ in opposition to CELCO'S MOTION TO EXCLUDE CLAIMS, Certificate of Service. (jl) (Entered: 12/23/2002)
12/23/2002	152	ORDER THAT DEFENDANT CELCO PARTNERHIP'S MOTION FOR A PROTECTIVE ORDER PREVENTING PLAINTIFF KATZ TECHNOLOGY FROM DEPOSING DENNIS STRIGL (CELCO'S PRESIDENT AND CEO) IS GRANTED; ETC. ( SIGNED BY JUDGE CLARENCE C. NEWCOMER ) 12/23/02 ENTERED AND COPIES MAILED AND FAXED BY CHAMBERS. (jl) (Entered: 12/23/2002)
12/23/2002	153	STIPULATION AND ORDER THAT BY 1/27/03 THE PARTIES EXCHANGE BY FAX AND OVERNIGHT COURIER OPENING EXPERT REPORTS ON ISSUES FOR WHICH A PARTY BEARS THE BURDEN OF PROOF. BY 2/17/03 THE PARTIES EXCHANGE BY FAX AND OVERNIGHT COURIER RESPONSIVE EXPERT REPORTS. BY 2/28/03 COMPLETION OF EXPERT DEPOSITIONS, ETC. ( SIGNED BY JUDGE CLARENCE C. NEWCOMER ) 12/23/02 ENTERED AND COPIES MAILED AND FAXED BY CHAMBERS. (jl) (Entered: 12/23/2002)
12/23/2002	154	ORDER THAT PLAINTIFF'S MOTION TO COMPEL DISCOVERY FROM DEFENDANT CELCO PARTNERSHIP IS DENIED; ETC. ( SIGNED BY JUDGE CLARENCE C. NEWCOMER ) 12/23/02 ENTERED AND COPIES MAILED AND FAXED BY CHAMBERS. (jl) (Entered: 12/23/2002)
12/23/2002	155	Reply Memorandum by DEFENDANT CELCO PARTNERSHIP in support of motion to exclude claims , Certificate of Service. (jl) (Entered: 12/24/2002)
12/24/2002	156	ORDER THAT DEFENDANT VERIZON COMMUNICATIONS MOTION TO EXCLUDE FROM THE CLAIM CONSTRUCTION PROCESS CLAIMS FROM PLAINTIFF DID NOT IDENTIFY IN ITS 10/24/02 SUBMISSION TO THE COURT IS GRANTED; ETC. ( SIGNED BY JUDGE CLARENCE C. NEWCOMER ) 12/24/02 ENTERED AND COPIES MAILED AND FAXED BY CHAMBERS. (jl) (Entered: 12/24/2002)
12/27/2002	157	MOTION UNDER FED.R. CIV.P. 37 (b) by PLAINTIFF RONALD A. KATZ TO STRIKE DEFENDANT CELCO PARTNERSHIP'S PROPOSED CLAIM CONSTRUCTIONS FOR VIOLATION OF THE COURT'S 9/24/02 ORDER , MEMORANDUM, CERTIFICATE OF SERVICE. (jl) (Entered: 12/27/2002)
01/03/2003	158	STIPULATION AND ORDER THAT THIS ACTION IS STAYED FOR A PERIOD OF 30 DAYS FROM THE EXECUTION OF THIS STIPULATION BY KATZ AND CELCO, AND THAT ALL DATES IN THIS ACTION ARE DEFERRED BY 30 DAYS, INCLUDING THE DATE FOR THE COMMENCEMENT OF TRIAL AND THE OTHER DATES SET FORTH IN THE COURT'S SCHEDULING ORDERS OF 9/24 AND 10/15/ AND 12/23/02; ETC. ( SIGNED BY JUDGE CLARENCE C. NEWCOMER ) 1/3/03 ENTERED AND COPIES MAILED AND FAXED. (jl) (Entered: 01/03/2003)
02/13/2003	159	STIPULATION AND ORDER THAT ALL CLAIMS AND COUNTERCLAIMS ASSERTED BY AND BETWEEN THE PARTIES ARE DISMISSED WITH PREJUDICE; AND EACH OF THE PARTIES SHALL BEAR ITS OWN COSTS AND ATTORNEY FEES, ETC. ( SIGNED BY JUDGE CLARENCE C. NEWCOMER ) 2/13/03 ENTERED AND COPIES MAILED AND FAXED BY CHAMBERS. (jl) (Entered: 02/13/2003)
02/13/2003	--	Case closed (kv) (Entered: 02/21/2003)
03/07/2003	160	Notice of appeal by PLAINTIFF RONALD A. KATZ . Fee Status: 105.00 . Copies to: JUDGE CLARENCE C. NEWCOMER , Clerk USCA, Appeals Clerk, and ARLIN M. ADAMS, DIANE SIEGEL DANOFF, ROBERT C. HEIM, MARC S. SEGAL, MATTHEW J. SIEMBIEDA, WILLIAM C. ROOKLIDGE, MARGARET S. WOODRUFF, TIMOTHY D. KATSIFF, WILLIAM Z. NAKHLEH, MATTHEW J. MOORE, KEVIN G. BAER, MARK D. WEGENER, JAMES E. HOPENFELD, BRYAN J. VOGEL, JEFFREY DAVID BLAKE, JONATHAN M. KAPLAN, LYNETTE NOBLITT, REBECCA GIBBS, SONA DE, WILLIAM J. MCCABE, JESSE J. JENNER, GENE W. LEE, CHRISTOPHER J. HARNETT, RODERICK R. MCKELVIE, MICHAEL A. MORSE, MICHAEL M. MARKMAN, STANLEY YOUNG, NITIN SUBHEDAR, ROBERT T. HASLAM, LILLIAN C. HENRY, SARAH ELIZABETH MITCHELL, GREGORY P. MILLER, Certificate of Service. (jl) (Entered: 03/10/2003)
03/07/2003	161	Copy of Clerk's notice to the Federal Circuit : [160-1] appeal to the Federal Circuit. (jl) (Entered: 03/10/2003)
03/18/2003	162	Copy of TPO form ref: [160-1] appeal . (jl) (Entered: 03/18/2003)
03/24/2003	--	Notice of Docketing ROA from USCA Re: [160-1] appeal US FEDERAL CIRCUIT, NUMBER: 03-1301 . 3/20/03 (jl) (Entered: 03/24/2003)

03/24/2003	163	MOTION by PLAINTIFF RONALD A. KATZ FOR RELIEF FROM JUDGMENT , CERTIFICATE OF SERVICE, BRIEF, DECLARATION. (filed under seal). (jl) (Entered: 04/21/2003)
04/18/2003	164	Declaration of MICHAEL MORSE, Certificate of Service. (jl) Additional attachment(s) added on 7/7/2003 (cl, ). (Entered: 04/24/2003)
05/02/2003	165	MOTION by DEFENDANT , VERIZON COMMUNICATIO TO FILE UNDER SEAL VERIZON COMMUNICATIONS INC.'S OPPOSITION TO RAKTL'S MOTION FOR RELIEF FROM JUDGMENT AND DECLARATION OF KEVIN G. BAER IN SUPPORT THEREOF , CERTIFICATE OF SERVICE. (opposition to RAKTL'S MOTION attached). (jl) (Entered: 05/05/2003)
05/07/2003	166	ORDER THAT THE MOTION TO FILE UNDER SEAL VERIZON COMMUNICATIONS INC.'S OPPOSITION TO RAKTL'S MOTION FOR RELIEF FROM JUDGMENT AND DECLARATION OF KEVIN G. BAER IN SUPPORT THEREOF IS GRANTED; ETC. ( SIGNED BY JUDGE CLARENCE C. NEWCOMER ) 5/7/03 ENTERED AND COPIES MAILED AND FAXED BY CHAMBERS. (jl) (Entered: 05/07/2003)
05/07/2003	167	VERIZON COMMUNICATIONS OPPOSITION TO RAKTL'S MOTION FOR RELIEF FROM JUDGMENT , Certificate of Service, Declarations . (filed under seal). (jl) (Entered: 05/07/2003)
05/16/2003	168	MOTION by PLAINTIFF RONALD A. KATZ TO FILE UNDER SEAL REPLY BRIEF OF PLAINTIFF RONALD KATZ TECHNOLOGY LICENSING IN SUPPORT OF ITS MOTION FOR RELIEF FROM JUDGMENT AND SUPPORTING DECLARATION RODERICK MCKELVIE CERTIFICATE OF SERVICE, DECLARATIONS. (reply brief attached). (filed under seal). (jl) (Entered: 05/19/2003)
06/24/2003	169	RONALD A. KATZ TECHNOLOGY LICENSING, L.P. MOTION TO REQUEST ORAL ARGUMENT ON PENDING RULE 60 (B) MOTION, DECLARATION, CERTIFICATE OF SERVICE..(jl, ) Additional attachment(s) added on 7/29/2003 (jl, ). (Entered: 06/25/2003)
06/26/2003	170	VERIZON COMMUNICATIONS INC. RESPONSE TO KATZ LICENSING'S MOTION TO REQUEST ORAL ARGUMENT ON PENDING RULE 60 (B) MOTION, CERTIFICATE OF SERVICE. (jl, ) (Entered: 06/27/2003)
08/19/2003	171	ORDER THAT PLAINTIFF'S MOTION TO FILE UNDER SEAL REPLY BRIEF IS GRANTED AND THE CLERK IS DIRECTED TO FILE THESE DOCUMENTS UNDER SEAL.SIGNED BY JUDGE CLARENCE C. NEWCOMER ON 8/18/03.8/20/03 ENTERED AND COPIES MAILED AND COPIES FAXED BY CHAMBERS ON 8/19/03. (cdd, ) (Entered: 08/20/2003)
07/15/2004	172	STIPULATION AND ORDER THAT ALL CLAIMS AND COUNTERCLAIMS ASSERTED BY AND BETWEEN THE PARTIES INCLUDING PLAINTIFF'S PENDING MOTION FOR RELIEF FROM JUDGMENT ARE DISMISSED WITH PREJUDICE AND EACH PARTY SHALL BEAR ITS OWN COSTS AND ATTORNEY FEES; ETC.. SIGNED BY JUDGE CLARENCE C. NEWCOMER ON 7/15/04. 7/15/04 ENTERED AND COPIES MAILED AND FAXED BY CHAMBERS.(jl, ) (Entered: 07/15/2004)

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# EXHIBIT D

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
CIVIL MINUTES - GENERAL

P-SEND

SCANNED

CASE NO: CV 01-9871-RGK (RCx)

DATE: February 4, 2004

TITLE: *VERIZON CALIFORNIA, INC. v. RONALD A. KATZ TECHNOLOGY  
LICENSING LP*

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PRESENT: THE HONORABLE R. GARY KLAUSNER, U.S. DISTRICT JUDGE

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Sharon L. Williams  
Courtroom Clerk

Not Reported  
Court Reporter

ATTORNEY FOR PLAINTIFF:

ATTORNEY FOR DEFENDANT:

Not Present

Not Present

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PROCEEDINGS: (IN CHAMBERS) ORDER RE PLAINTIFF'S MOTION TO  
MODIFY THE SCHEDULING ORDER FOR LIMITED  
DISCOVERY AND TO SUPPLEMENT EXPERT REPORTS (Docket  
Entry 624)

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Plaintiff Verizon California, Inc. ("Verizon") moves to modify the September 25, 2002 Scheduling Order for additional, limited discovery and for supplementation of expert reports, and for sanctions against Ronald A. Katz Technology Licensing, L.P. ("Katz"). The Court has read the moving and responding papers.<sup>1</sup> For the reasons set forth below, the Court grants Verizon's motion.

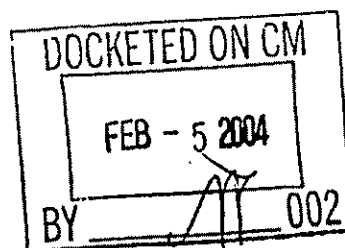
**I. BACKGROUND**

In September 2003, long after the close of fact discovery, Verizon received more than 130,000 pages of documents (the "First Data documents") from Katz. The First Data documents appear to have been produced in 1998 by First Data Resources, Inc.<sup>2</sup> ("First Data") in response to a third-party subpoena in another litigation, Ronald A. Katz, Tech. Licensing, L.P., and MCI Telecomms. Corp. v. AT&T Corp., et al., Civil Action No. 97-4453 (E.D. Pa.) ("the AT&T litigation"). See Hopenfeld Decl. Ex. A. The First Data documents appear to be copies of

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<sup>1</sup> The court grants Verizon's Motion to Strike Katz's Response to Verizon California's Reply In Support of Motion to Modify Scheduling Order For Limited Discovery And to Supplement Expert Reports And For Sanctions ("Response"). As such, Katz's response will not be considered.

<sup>2</sup> First Data Resources, Inc. is the sole limited partner of defendant Ronald A. Katz Technology Licensing, L.P. See Baer Decl. Ex. 15.





documents produced by First Data as plaintiff in a prior litigation, First Data Corp. v. West Interactive Corp., CV 91-4471 TJH (Tx) (C.D. Cal. 1994) ("the West Interactive litigation"). In the AT&T Litigation, First Data designated a portion of the First Data documents as confidential information pursuant to a protective order. See Baer Decl. Ex. 29. According to Katz, the First Data documents were in the possession of the law firm Heller, Ehrman, White & McAuliffe ("Heller, Ehrman"), the firm that represented Katz in the AT&T litigation. Markman Decl. ¶ 5. In addition, pursuant to the protective order in the AT&T litigation, Heller, Ehrman, according to Katz, was not permitted to disclose any documents subject to the protective order in the AT&T litigation without First Data's permission. See generally Hopenfeld Decl. Ex. C.

SCANNED

Verizon now moves, in light of Katz's allegedly belated document production, 1) to modify the September 25, 2002 Scheduling Order to allow it to take limited discovery and to supplement its expert reports and initial disclosure, 2) to compel production of additional documents, and 3) to sanction Katz by seeking an order preventing Katz from relying on any of the First Data documents at trial.

The circumstances surrounding the eventual production of the First Data documents appear to be consistent with the long line of discovery disputes between the parties in this litigation. Verizon served document requests, which appear to cover the First Data documents, on Katz in June 2002 and November 2002. Baer Decl. Exs. 20, 21. Katz does not appear to dispute that the documents at issue in this motion are responsive to at least Verizon's document requests served on November 15, 2002. Indeed, one document suggests that Katz knew that it would eventually have to produce the First Data documents, as Heller, Ehrman appears to have retrieved the First Data documents from storage in October 2002. See Baer Decl. Ex. 4. On December 11, 2002, Katz responded that it would produce documents covered by Verizon's Request for Documents No. 50. See Hopenfeld Decl. Ex. S. Subsequently, on March 3, 2003, Magistrate Judge Chapman granted-in-part Verizon's motion to compel production under Verizon's document requests, including Document Request No. 50 (all previous litigation documents). At the February 26, 2003 hearing on Verizon's motion to compel, Katz indicated that it was making responsive documents available for production at Heller, Ehrman. Baer Decl. Ex. 2 at 47. The First Data documents, however, were not made available for inspection when Verizon sent its attorneys to Northern California in March 2003. See Baer Decl. Ex. 3 at 21. Rather, the First Data documents were separated from the production pending permission to disclose from First Data. Garten Decl. ¶ 3. According to Katz, Verizon's attorney was made aware of the fact that certain documents were being withheld pending permission from an unspecified third party. Id. ¶ 4.

During the February 26, 2003 hearing on Verizon's motion to compel, Magistrate Judge Chapman ordered Katz to provide a verification under Fed. R. Civ. Proc. 26(g) that its production responsive to a certain set of document requests and interrogatories, including Request for Documents No. 50, was complete. Despite the remaining issues surrounding the First Data documents, Katz filed its verification on March 7, 2003. Hopenfeld Decl. Ex. V. Not until early April 2003 did Katz ask First Data for permission to release the First Data documents to Verizon. Baer Decl. Ex. 3 at 31-32. First Data eventually responded in June 2003. After receiving First

Data's authorization, Katz offered the documents for inspection in early July 2003. Baer Decl. ¶ 3. On July 10, 2003, Verizon requested that copies be made and sent to it. Baer Decl. Ex. 22. Katz finally produced copies of the First Data documents on September 3, 2003. Baer Decl. Ex. 5. Thereafter, Katz and Verizon met and corresponded to negotiate the consequences, if any, of Katz's belated production of the First Data documents. See, e.g., Baer Decl. Exs. 3 at 25-26; see also id. Exs. 5, 27, 28, 32, 33; see also Hopensfeld Decl. Ex. G. Verizon filed this motion after the parties failed to reach an agreement.

Verizon's motion is disingenuous, contends Katz, because Verizon's trial counsel, Howrey, Simon, Arnold & White LLP ("Howrey"), knew or should have known about the existence of the First Data documents since at least 1998, because Howrey was an attorney of record in the AT&T litigation, and even received copies of the First Data documents in connection its representation of American Transtech in the AT&T litigation. Katz contends that although Verizon knew of the First Data documents, Verizon failed to specifically move to compel production of these documents, or take any other action to obtain discovery related to the First Data documents. Katz further argues that Verizon should have obtained the documents or the requisite permissions to use the documents directly from First Data. In response, Verizon contends that Howrey should not be charged with notice of the contents of the American Transtech files, as American Transtech is not a party to this litigation and the Howrey attorneys that would have reviewed the First Data documents had all left the firm before the present litigation was filed. See Moore Decl. ¶¶ 3, 4. Moreover, Verizon points out that significant amounts of the First Data documents in the American Transtech files are missing, as many of the documents had been returned. See Levine ¶¶ 5, 6. Verizon also argues that because it received certain documents with a First Data ("FD") bates stamp during the course of discovery, Levine Decl. ¶ 2, and in light of Katz's verification under Rule 26(g), Verizon was misled into believing that Katz was not withholding any documents.

## II. ANALYSIS

In general, a pretrial scheduling order can only be modified "upon a showing of good cause." Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 608 (9th Cir. 1992) (quoting Fed. R. Civ. P. 16(b)). The pretrial schedule may be modified "if it cannot reasonably be met despite the diligence of the party seeking the extension." Id. at 609. If the party seeking the modification "was not diligent," the motion to modify should not be granted. Id.

The record demonstrates that Verizon has been diligent in pursuing discovery of the First Data documents, and that good cause exists for modifying the scheduling order to permit limited discovery relating to the First Data documents. While the record appears to indicate that Howrey knew of the West Interactive litigation, and possessed the means to determine at least the existence of the First Data documents in its own files, the evidence presented adequately suggest that Verizon's attorneys had actual knowledge of, or sufficient access to, the First Data documents themselves. The record also suggests that Verizon was not in a position to know that Katz failed

to produce the bulk of the First Data documents. In addition, Verizon's efforts to obtain other third-party documents from the AT&T litigation suggests that, had it actually known of the First Data documents, Verizon would have sought to specifically obtain their production.

Furthermore, Katz cannot use the fact that Verizon's attorneys had copies of the First Data documents in its own files due to their representation of a third party in the AT&T litigation to foist its discovery obligations on Verizon. As Katz admitted at the "meet and confer" phone conference of October 16, 2003, it knew of the First Data documents, had the means to gain the requisite permissions to obtain or produce them, but essentially did nothing until after the close of fact discovery. See Baer Decl. Ex. 3 at 74. Specifically, it appears that Heller, Ehrman held the First Data documents on Katz's behalf, albeit subject to the protective order in the AT&T litigation. Katz does not dispute that the First Data documents are directly responsive to Verizon's requests for documents and fall within Magistrate Judge Chapman's order to compel of March 3, 2003. Furthermore, it appears that the protective order in the AT&T litigation merely required Katz to provide First Data ten days notice before producing the First Data documents to Verizon.<sup>3</sup> See Hopenfeld Decl. Ex. C (September 29, 1997 Protective Order ¶ 13). Yet, despite the March 3, 2003 Order and its Rule 26(g) verification to the contrary, Katz did not attempt to obtain the at issue documents from First Data until April 2003.

In addition, the information in the First Data documents themselves appears to establish good cause to modify the scheduling order to permit the limited discovery and supplementation Verizon seeks. Specifically, Verizon has made a sufficient showing that good cause exists to modify the scheduling order to permit the depositions of Msrs. Katz, Nilsson, Stewart<sup>4</sup>, and Carbullido to take further discovery relating to the First Data documents. Good cause also exists to allow Verizon to obtain discovery into missing, redacted, or withheld documents from the First Data document production of September 2003. In light of the foregoing, good cause also exists for permitting Verizon to supplement its expert reports on the subjects of invalidity, inequitable conduct and damages to the extent necessitated by information in the First Data documents or obtained from the depositions and further discovery allowed by this Order. Still further, good causes exists for requiring Katz to produce documents identified in its privilege log that fall within the scope of Katz's waiver of the attorney-client privilege. Verizon's showing on this motion is inadequate, however, to resolve the scope of Katz's waiver, which appears to extend beyond the First Data documents produced to date. Accordingly, the parties should resolve the scope of Katz's waiver according to the ordinary rules of discovery practice, as discussed in more detail below.

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<sup>3</sup> Neither party offers legal precedent or cogent explanation that elucidates how or why the Protective Order issued in the AT&T litigation affects this case. Nevertheless, the parties appear to believe that the AT&T Protective Order prevents the immediate production of First Data documents by Katz.

<sup>4</sup> While it appears to be quite a stretch for the document authored by Mr. Stewart, by itself, to demonstrate or suggest that Katz was not the actual inventor of the claims at issue in this litigation, the document portends at least the possibility of implementation problems with the Katz system, which Verizon should fairly be allowed to probe

Furthermore, the record submitted by the parties in connection with this motion reveals, at the very least, a disturbingly casual attitude by Katz as to its discovery obligations, court orders, and the significance of its verification under Rule 26(g). As discussed above, Katz knew the First Data documents were directly responsive to Verizon's discovery requests and an order by the Magistrate Judge compelling production under Verizon's discovery requests. Notwithstanding its contentions as to how Verizon should have ultimately obtained access to the First Data documents, Katz's filing of its Rule 26(g) verification, essentially stating that all responsive documents have been produced, in the face of the circumstances described above greatly disturbs the Court. Accordingly, as a sanction to Katz, the Court also orders that Katz may not rely on the First Data documents, or any other documents produced by Katz pursuant to this Order, in any further proceedings in this case.<sup>5</sup>

Verizon's motion also seeks permission to add analysis of two prior art references (the "VCT references") to its expert report on the subject of invalidity. Despite having been made aware of these references in April 2003 (albeit after the deadline for its expert report), Verizon waited until this motion to seek leave to add the VCT references to its expert report. While the documents themselves appear to establish good cause for allowing the requested supplementation, Verizon has not demonstrated the requisite diligence. Specifically, Verizon's requested supplementation comes almost eight months after the VCT references were first brought to Verizon's attention. Furthermore, the delay in requesting supplementation is unconnected to Katz's belated production of the First Data documents. While the Court is certainly sensitive to the demands placed on both parties' counsel by this litigation, Verizon has not presented an adequate reason as to why it did not move to supplement its expert report on the subject of invalidity with the VCT references until December 2003.

The Court, however, is inclined to grant Verizon's request as a further sanction to Katz for its Rule 26(g) verification and subsequent production of the clearly responsive First Data documents. Further, Verizon's requested supplementation advances the judicial policy of adjudicating a dispute on its merits, rather than on procedural matters. This consideration has especial force in a patent litigation where a prior art reference that may potentially invalidate a patent claim, which affects more than just the rights of the parties to the litigation, may be withheld from consideration merely because it was discovered after a court-imposed deadline. In addition, in light of the new trial date set forth in the Court's scheduling order of December 22, 2003, Katz will not be prejudiced by Verizon's requested supplementation. Accordingly, the Court shall permit Verizon to supplement its expert report on the subject of invalidity to include the VCT references, and to add Mr. Bill Hutchinson to its initial disclosure.

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<sup>5</sup> This Order shall also serve as an indication to both parties that this Court shall not blithely tolerate the belated production of responsive documents during the discovery periods set forth in the December 22, 2003 Order, and further expects nothing less than proactive cooperation and performance by both parties in the satisfaction of their respective discovery obligations.



### III. CONCLUSION

In light of the foregoing, the Court hereby **GRANTS** Verizon's Motion to Modify the Scheduling Order for Limited Discovery and to Supplement Expert Reports. The Court modifies the scheduling order as set forth below:

a) Within 7 days of this Order, Katz shall produce all missing, redacted or withheld documents from the First Data documents produced in September 2003 that are in Katz's possession, custody or control.

b) Within 7 days of this Order, Katz shall produce all documents on its privilege log that fall within the scope of Katz's waiver resulting from the production of the First Data documents. If there is any dispute concerning the scope of Katz's waiver, the parties shall also meet and confer regarding this dispute within 7 days of this Order. Any remaining dispute concerning the scope of Katz's waiver of the Attorney-Client Privilege or Attorney Work Product protections is to be handled by normal discovery motion practice before Magistrate Judge Chapman. Furthermore, this Order hereby instructs the Magistrate Judge not to hesitate in the use of appropriate sanctions (monetary or otherwise) if, in the Magistrate Judge's Opinion, Katz has unreasonably withheld responsive documents that clearly fall within the scope of its waiver.


c) Verizon may depose Mssrs. Katz, Nilsson, Stewart, and Carbullido on topics relating to the First Data documents, as well as any documents obtained pursuant to this Order. Katz shall make each witness available for deposition within 14 days of Katz's completed document production as required by this Order, any order of the Magistrate Judge, or pursuant to any resolution of all discovery disputes by the parties concerning the scope of Katz's waiver.

In addition, Verizon may supplement its initial disclosure to add Mr. Bill Hutchinson. Verizon may also supplement its expert reports on the subjects of invalidity, inequitable conduct and damages based on the First Data documents, the documents and testimony resulting from the limited discovery permitted by this Order, and the two VCT references. Verizon shall file its supplemental expert reports, if any, within 21 days of the later of 1) the conclusion of the depositions ordered above, or 2) Katz's completed document production pursuant to this Order.

The Court hereby orders that, except in connection with resolving the scope of Katz's waiver of the attorney-client or attorney work product privilege, Katz may not rely on any of the First Data documents, or any other document produced pursuant to this Order, in any further proceeding in this case.

**IT IS SO ORDERED.**

MINUTES  
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Initials of Deputy Clerk: 

# EXHIBIT E

<i>Defendants in Actions filed by RAKTL</i>				
<i>Civil Action No.</i>	<i>District Court</i>	<i>Defendant</i>	<i>Defendant's State of Incorporation</i>	<i>Defendant's Principal Place of Business</i>
05-142	U S D C Eastern District of Texas (Texarkana)	Citibank, N.A.	NA	399 Park Ave New York, NY 10111
05-142	U S D C Eastern District of Texas (Texarkana)	Citibank, F S B	NA	11800 Spectrum Center Reston, Virginia 20190
05-142	U S D C Eastern District of Texas (Texarkana)	Citibank (West), F.S.B.	NA	1 Sansome Street San Francisco, California 94104
05-142	U S D C Eastern District of Texas (Texarkana)	Citibank (South Dakota), N.A.	Delaware	701 East 60th Street North Sioux Falls, South Dakota 57117
05-142	U S D C Eastern District of Texas (Texarkana)	Citibank USA, N.A.	NA	701 East 60th Street North Sioux Falls, South Dakota 57117
05-142	U S D C Eastern District of Texas (Texarkana)	Citicorp Investment Services	Delaware	One Court Square 24th Floor Long Island City, New York 11120
06-182	U S D C Eastern District of Texas (Texarkana)	Discover Financial Services, Inc.	Delaware	2500 Lake Cook Road Riverwoods, Illinois 60015
06-182	U S D C Eastern District of Texas (Texarkana)	Discover Bank	Delaware	502 E. Market Street Greenwood, Delaware 19950
06-182	U S D C Eastern District of Texas (Texarkana)	T-Mobile USA, Inc	Delaware	12920 S E 38th St Bellevue, Washington 98006
06-182	U S D C Eastern District of Texas (Texarkana)	Wal-Mart Stores, Inc.	Delaware	702 S W Eighth Street Bentonville, Arkansas 72716
06-182	U S D C Eastern District of Texas (Texarkana)	Wal-Mart Stores East, L P	Delaware	702 S W Eighth Street Bentonville, Arkansas 72716
06-182	U S D C Eastern District of Texas (Texarkana)	Wal-Mart Stores Texas, L P	Texas	702 S W Eighth Street Bentonville, Arkansas 72716
06-182	U S D C Eastern District of Texas (Texarkana)	Sam's East, Inc.	Arkansas	702 S W Eighth Street Bentonville, Arkansas 72716
06-182	U S D C Eastern District of Texas (Texarkana)	Sam's West, Inc	Arkansas	702 S W Eighth Street Bentonville, Arkansas 72716
06-182	U S D C Eastern District of Texas (Texarkana)	Wal-Mart.Com, Inc	California	702 S W Eighth Street Bentonville, Arkansas 72716
06-188	U S D C Eastern District of Texas (Texarkana)	American Electric Power Company, Inc	New York	1 Riverside Plaza Columbus, Ohio 43215
06-188	U S D C Eastern District of Texas (Texarkana)	Southwestern Electric Power Company	Delaware	Shreveport, Louisiana

<i>Defendants in Actions filed by RAKTL</i>				
<i>Civil Action No.</i>	<i>District Court</i>	<i>Defendant</i>	<i>Defendant's State of Incorporation</i>	<i>Defendant's Principal Place of Business</i>
06-188	U S D C Eastern District of Texas (Texarkana)	CenterPoint Energy Inc.	Texas	1111 Louisiana Houston, TX 77002
06-188	U S D C Eastern District of Texas (Texarkana)	CenterPoint Energy Houston Electric LLC	Texas	1111 Louisiana Houston, TX 77002
06-188	U S D C Eastern District of Texas (Texarkana)	Centerpoint Energy Resources Corp.	Texas	1111 Louisiana Houston, TX 77002
06-188	U S D C Eastern District of Texas (Texarkana)	Target Corp.	Minnesota	1000 Nicollet Mall Minneapolis, Minnesota 55403
06-188	U S D C Eastern District of Texas (Texarkana)	Target Bank	Utah	299 S Main Street Suite 2050 Salt Lake City, Utah 84111
06-188	U S D C Eastern District of Texas (Texarkana)	Target National Bank	South Dakota	3901 W 53rd Street Sioux Falls, South Dakota 57106
06-188	U S D C Eastern District of Texas (Texarkana)	Whirlpool Corporation	Delaware	Whirlpool Center 2000 M-63 Benton Harbor Michigan 49002
06-188	U S D C Eastern District of Texas (Texarkana)	American Electric Power WR	Not listed in Complaint It is listed on Exhibit A, Schedule of Actions	
06-177	U S D C Eastern District of Texas (Lufkin)	Alltel Corporation	Delaware	One Allied Drive Little Rock, Arkansas 72202
06-177	U S D C Eastern District of Texas (Lufkin)	Alltel Communications Wireless, Inc.	Louisiana	One Allied Drive Little Rock, Arkansas 72202
06-177	U S D C Eastern District of Texas (Lufkin)	Alltel Communications of Texarkana, Inc.	Louisiana	One Allied Drive Little Rock, Arkansas 72202
06-191	U S D C Eastern District of Texas (Lufkin)	Cox Communications, Inc.	Delaware	1400 Lake Hearn Drive Atlanta, GA 30319
06-191	U S D C Eastern District of Texas (Lufkin)	Coxcom, Inc.	Delaware	1550 West Deer Valley Road Phoenix, Az 85027
06-192	U S D C Eastern District of Texas (Lufkin)	The DirecTV Group, Inc	Delaware	2230 East Imperial Highway El Segundo, CA 90245
06-192	U S D C Eastern District of Texas (Lufkin)	DirecTV, Inc.	California	2230 East Imperial Highway El Segundo, CA 90245
06-192	U S D C Eastern District of Texas (Lufkin)	DirecTV Holdings, LLC	Delaware	2230 East Imperial Highway El Segundo, CA 90245



<i>Defendants in Actions filed by RAKTL</i>				
<i>Civil Action No.</i>	<i>District Court</i>	<i>Defendant</i>	<i>Defendant's State of Incorporation</i>	<i>Defendant's Principal Place of Business</i>
06-192	U S D C Eastern District of Texas (Lufkin)	DirectTV Enterprises, LLC	Delaware	2230 East Imperial Highway El Segundo, CA 90245
06-193	U S D C Eastern District of Texas (Lufkin)	Earthlink, Inc	Delaware	1375 Peachtree St Atlanta, Georgia 30309
06-194	U S D C Eastern District of Texas (Lufkin)	Tracfone Wireless, Inc.	Florida	8390 NW 25th Street Miami, FL 33122
06-178	U S D C Eastern District of Texas (Lufkin)	Chevron Corporation	Delaware	6001 Bollinger Canyon Road San Ramon, California 94583
06-178	U S D C Eastern District of Texas (Lufkin)	Chevron U S A , Inc.	Pennsylvania	6001 Bollinger Canyon Road San Ramon, California 94583
06-178	U S D C Eastern District of Texas (Lufkin)	Chevron Products Company	Pennsylvania	6001 Bollinger Canyon Road San Ramon, California 94583
06-178	U S D C Eastern District of Texas (Lufkin)	Chevron Credit Bank, N.A.	NA	Concord, California
06-195	U S D C Eastern District of Texas (Lufkin)	Ford Motor Company	Delaware	One American Road Dearborn, Michigan 48126
06-195	U S D C Eastern District of Texas (Lufkin)	Ford Motor Credit Company	Delaware	One American Road Dearborn, Michigan 48126
06-196	U S D C Eastern District of Texas (Lufkin)	Cullen/Frost Bankers, Inc	Texas	100 West Houston St San Antonio, Texas 78205
06-196	U S D C Eastern District of Texas (Lufkin)	The Frost National Bank, N A	NA	100 West Houston St San Antonio, Texas 78205
06-197	U S D C Eastern District of Texas (Lufkin)	General Electric Capital Corporation	Delaware	260 Long Ridge Road Stamford, Connecticut 06927
06-197	U S D C Eastern District of Texas (Lufkin)	General Electric Capital Services, Inc.	Delaware	260 Long Ridge Road Stamford, Connecticut 06927
06-197	U S D C Eastern District of Texas (Lufkin)	General Electric Consumer Finance, Inc.	Delaware	1600 Summer Street Stanford, Connecticut 06927
06-198	U S D C Eastern District of Texas (Lufkin)	General Motors Corporation	Delaware	300 Renaissance Center Detroit, Michigan 48265
06-198	U S D C Eastern District of Texas (Lufkin)	General Motors Acceptance Corporation	Michigan	200 Renaissance Center Detroit, Michigan 48265
06-198	U S D C Eastern District of Texas (Lufkin)	GMAC Residential Capital Corporation	Delaware	8400 Normandale Lake Boulevard Minneapolis, Minnesota 55437

<i>Defendants in Actions filed by RAKTL</i>				
<i>Civil Action No.</i>	<i>District Court</i>	<i>Defendant</i>	<i>Defendant's State of Incorporation</i>	<i>Defendant's Principal Place of Business</i>
06-198	U S D C Eastern District of Texas (Lufkin)	GMAC Mortgage Corporation	Pennsylvania	100 Witmer Road Horsham, PA 19044
06-199	U S D C Eastern District of Texas (Lufkin)	Humana, Inc.	Delaware	500 West Main Street Louisville, Kentucky 40202
06-200	U S D C Eastern District of Texas (Lufkin)	PNC Financial Services Group, Inc.	Pennsylvania	One PNC Plaza 249 Fifth Avenue Pittsburgh, Pennsylvania 15222
06-200	U S D C Eastern District of Texas (Lufkin)	PNC Bank, N A	NA	One PNC Plaza 249 Fifth Avenue Pittsburgh, Pennsylvania 15222
06-201	U S D C Eastern District of Texas (Lufkin)	Regions Financial Corporation	Delaware	417 North 20th Street Birmingham, Alabama 35203
06-201	U S D C Eastern District of Texas (Lufkin)	Regions Bank, N.A.	Alabama	417 North 20th Street Birmingham, Alabama 35203
06-202	U S D C Eastern District of Texas (Lufkin)	Safeco Corporation	Washington	4333 Brooklyn Ave NE Safeco Plaza Seattle, Washington 98185
06-202	U S D C Eastern District of Texas (Lufkin)	Safeco Insurance Co. of America	Washington	4333 Brooklyn Ave NE Safeco Plaza Seattle, Washington 98185
06-203	U S D C Eastern District of Texas (Lufkin)	U.S. Bankcorp	Delaware	800 Nicolett Mall Minneapolis, Minnesota 55402
06-203	U S D C Eastern District of Texas (Lufkin)	U.S. Bank, NA	Delaware	800 Nicolett Mall Minneapolis, Minnesota 55402
06-334	U S D C Eastern District of Texas (Lufkin)	American Airlines, Inc.	Delaware	4333 Amon Carter Blvd Fort Worth, Texas 76155
06-334	U S D C Eastern District of Texas (Lufkin)	American Beacon Advisors, Inc.	Delaware	4151 Amon Carter Blvd MD 2450 Fort Worth, Texas 76155
06-334	U S D C Eastern District of Texas (Lufkin)	Fedex Corporation	Delaware	942 South Shady Grove Road Memphis, Tennessee 38120
06-334	U S D C Eastern District of Texas (Lufkin)	Federal Express Corporation	Delaware	942 South Shady Grove Road Memphis, Tennessee 38120
06-334	U S D C Eastern District of Texas (Lufkin)	FedEx Corporate Services, Inc	Delaware	3610 Hacks Cross Road Memphis, Tennessee 38125
06-334	U S D C Eastern District of Texas (Lufkin)	Fedex Customer Information Services, Inc.	Delaware	3610 Hacks Cross Road Memphis, Tennessee 38125
06-334	U S D C Eastern District of Texas (Lufkin)	Hilton Hotels Corporations	Delaware	9336 Civic Center Drive Beverly Hills, California 90210

<i>Defendants in Actions filed by RAKTL</i>				
<i>Civil Action No.</i>	<i>District Court</i>	<i>Defendant</i>	<i>Defendant's State of Incorporation</i>	<i>Defendant's Principal Place of Business</i>
06-334	U S D C Eastern District of Texas (Lufkin)	Hilton Reservations Worldwide, LLC	Delaware	2050 Chennault Drive Carrollton, Texas 75006
06-334	U S D C Eastern District of Texas (Lufkin)	Hilton HHonors Worldwide, LLC	Delaware	9336 Civic Center Drive Beverly Hills, California 90210
06-334	U S D C Eastern District of Texas (Lufkin)	Marriott International, Inc.	Delaware	10400 Fernwood Road Bethesda, Maryland 20817
06-334	U S D C Eastern District of Texas (Lufkin)	Marriott Worldwide Reservation Services, LLC	Delaware	Two Executive Drive Somerset Executive Square Somerset, New Jersey 08873
06-334	U S D C Eastern District of Texas (Lufkin)	National Railroad Passenger Corporation, dba Amtrak	District of Columbia	60 Massachusetts Ave NE Washington, DC 20002
06-335	U S D C Eastern District of Texas (Marshall)	Aetna, Inc.	Pennsylvania	151 Farmington Ave Hartford, CT 06156
06-335	U S D C Eastern District of Texas (Marshall)	Aetna RX Home Delivery, LLC	Delaware	151 Farmington Ave Hartford, CT 06156
06-335	U S D C Eastern District of Texas (Marshall)	Wellpoint, Inc.	Indiana	120 Monument Circle Indianapolis, IN 46204
06-335	U S D C Eastern District of Texas (Marshall)	Professional Claim Services, Inc , dba Wellpoint Pharmacy Management, Inc.	New York	120 Monument Circle Indianapolis, IN 46204
06-335	U S D C Eastern District of Texas (Marshall)	Anthem Prescription Management, LLC	Ohio	8890 Duke Blvd Mason, OH 45040
06-335	U S D C Eastern District of Texas (Marshall)	Precision RX, Inc.	Delaware	120 Monument Circle Indianapolis, IN 46204
06-335	U S D C Eastern District of Texas (Marshall)	Caremark RX, Inc.	Delaware	211 Commerce Street Suite 800 Nashville, TN 37201
06-335	U S D C Eastern District of Texas (Marshall)	Caremark, Inc , dba Caremark Prescription Services	California	211 Commerce Street Suite 800 Nashville, TN 37201
06-335	U S D C Eastern District of Texas (Marshall)	The Kroger Co.	Ohio	1014 Vine Street Cincinnati, OH 45202
06-335	U S D C Eastern District of Texas (Marshall)	Kroger Texas L.P.	Ohio	1014 Vine Street Cincinnati, OH 45202
06-335	U S D C Eastern District of Texas (Marshall)	Healthy Options, Inc , dba Postal Prescription Services	Delaware	3800 SE 22nd Avenue Portland, OR 97202
06-335	U S D C Eastern District of Texas (Marshall)	Petmed Express, Inc , dba 1-800-Petmeds	Florida	1441 SW 29th Avenue Pompano Beach, FL 33069

<i>Defendants in Actions filed by RAKTL</i>				
<i>Civil Action No</i>	<i>District Court</i>	<i>Defendant</i>	<i>Defendant's State of Incorporation</i>	<i>Defendant's Principal Place of Business</i>
06-335	U S D C Eastern District of Texas (Marshall)	Safeway, Inc.	Delaware	5918 Stoneridge Mall Road Pleasanton, CA 94588
06-335	U S D C Eastern District of Texas (Marshall)	Randall's Food Markets, Inc.	Delaware	3663 Briarpark Houston, TX 77042
06-335	U S D C Eastern District of Texas (Marshall)	Randall's Food & Drugs, LP	Delaware	3663 Briarpark Houston, TX 77042
06-543	U S D C District of Delaware (Wilmington)	Reliant Energy, Inc.	Delaware	1000 Main Street Houston, Texas 77002
06-543	U S D C District of Delaware (Wilmington)	Reliant Energy Retail Services, LLC	Delaware	1000 Main Street Houston, Texas 77002
06-543	U S D C District of Delaware (Wilmington)	Pepco Holdings, Inc.	Delaware	701 Ninth Street NW Washington, DC 20068
06-543	U S D C District of Delaware (Wilmington)	PHI Service Company	Delaware	701 Ninth Street NW Washington, DC 20068
06-543	U S D C District of Delaware (Wilmington)	Delmarva Power & Light Company	Delaware	800 King Street Wilmington, Delaware 19899
06-543	U S D C District of Delaware (Wilmington)	Duke Energy Corporation	Delaware	526 South Church Street Charlotte, North Carolina 28202
06-543	U S D C District of Delaware (Wilmington)	Cinergy Corp.	Delaware	139 East Fourth Street Cincinnati, Ohio 45202
06-544	U S D C District of Delaware (Wilmington)	TD Banknorth, Inc	Delaware	Two Portland Square Portland, Maine 04112
06-544	U S D C District of Delaware (Wilmington)	Experian Information Solutions, Inc.	Ohio	475 Anton Boulevard Costa Mesa, California 92626
06-544	U S D C District of Delaware (Wilmington)	Comerica Incorporated	Delaware	Comerica Tower 500 Woodward Ave Detroit, Michigan 48226
06-544	U S D C District of Delaware (Wilmington)	Comerica Bank & Trust, N A	NA	Comerica Tower 500 Woodward Ave Detroit, Michigan 48226
06-544	U S D C District of Delaware (Wilmington)	Comerica Securities, Inc.	Michigan	201 West Fort Street Detroit, Michigan 48226
06-544	U S D C District of Delaware (Wilmington)	Ceridan Corporation	Delaware	3311 East Old Shakopee Road Minneapolis, Minnesota 55425
06-544	U S D C District of Delaware (Wilmington)	Comdata Corporation	Delaware	5301 Maryland Way Brentwood, Tennessee 37027

<i>Defendants in Actions filed by RAKTL</i>				
<i>Civil Action No</i>	<i>District Court</i>	<i>Defendant</i>	<i>Defendant's State of Incorporation</i>	<i>Defendant's Principal Place of Business</i>
06-544	U S D C District of Delaware (Wilmington)	Dillard's Inc.	Delaware	1600 Cantrell Road Little Rock, Arkansas 72201
06-544	U S D C District of Delaware (Wilmington)	Dillard Investment Co. Inc.	Delaware	1600 Cantrell Road Little Rock, Arkansas 72201
06-544	U S D C District of Delaware (Wilmington)	LaSalle Bank Corporation	Delaware	135 LaSalle Street Chicago, Illinois 60603
06-544	U S D C District of Delaware (Wilmington)	LaSalle Bank National Association	NA	135 LaSalle Street Chicago, Illinois 60603
06-544	U S D C District of Delaware (Wilmington)	LaSalle Financial Services, Inc.	Delaware	135 LaSalle Street Chicago, Illinois 60603
06-544	U S D C District of Delaware (Wilmington)	ABN AMRO Mortgage Group, Inc	Delaware	777 East Eisenhower Parkway, Suite 700 Ann Arbor Michigan 48108
06-545	U S D C District of Delaware (Wilmington)	Ahold U S A , Inc.	Maryland	1385 Hancock Street Quincy Center Plaza Quincy, Massachusetts 02169
06-545	U S D C District of Delaware (Wilmington)	The Stop & Shop Supermarket Company, LLC	Delaware	1385 Hancock Street Quincy Center Plaza Quincy, Massachusetts 02169
06-545	U S D C District of Delaware (Wilmington)	Giant Food Stores, LLC	Delaware	1149 Harrisburg Pike Carlisle, Pennsylvania 17013
06-545	U S D C District of Delaware (Wilmington)	Giant Food LLC	Maryland	6400 Sheriff Road Landover, Maryland 20785
06-545	U S D C District of Delaware (Wilmington)	Giant Food, Inc.	Delaware	6400 Sheriff Road Landover, Maryland 20785
06-545	U S D C District of Delaware (Wilmington)	Express Scripts, Inc.	Delaware	13900 Riverport Drive Maryland Heights, Missouri 63043
06-546	U S D C District of Delaware (Wilmington)	Time Warner Cable Inc.	Delaware	290 Harbor Drive Stamford, Connecticut 06902
06-546	U S D C District of Delaware (Wilmington)	Time Warner NY Cable LLC	Delaware	290 Harbor Drive Stamford, Connecticut 06902
06-546	U S D C District of Delaware (Wilmington)	Time Warner Entertainment Company, LP	Delaware	75 Rockefeller Plaza New York City, NY 10019
06-546	U S D C District of Delaware (Wilmington)	AOL, LLC	Delaware	22000 AOL Way Dulles, Virginia 20166
06-546	U S D C District of Delaware (Wilmington)	CompuServe Interactive Services, Inc.	Delaware	5000 Arlington Centre Boulevard Columbus, Ohio 43220



<i>Defendants in Actions filed by RAKTL</i>				
<i>Civil Action No</i>	<i>District Court</i>	<i>Defendant</i>	<i>Defendant's State of Incorporation</i>	<i>Defendant's Principal Place of Business</i>
06-546	U S D C District of Delaware (Wilmington)	Netscape Communications Corporation	Delaware	501 East Middelfield Road Mountain View, California 94043
06-546	U S D C District of Delaware (Wilmington)	United States Cellular Corporation	Delaware	8410 West Bryn Mawr Chicago, Illinois 60631
06-546	U S D C District of Delaware (Wilmington)	TDS Telecommunications Corporation	Delaware	525 Junction Road Madison, Wisconsin 53717
06-546	U S D C District of Delaware (Wilmington)	TDS Metrocom, LLC	Delaware	525 Junction Road Madison, Wisconsin 53717
06-546	U S D C District of Delaware (Wilmington)	Cablevision Systems Corporation	Delaware	1111 Stewart Avenue Bethpage, New York 11714
06-546	U S D C District of Delaware (Wilmington)	CSC Holdings, Inc.	Delaware	1111 Stewart Avenue Bethpage, New York 11714
06-546	U S D C District of Delaware (Wilmington)	Cablevision Systems New York City Corporation	Delaware	1111 Stewart Avenue Bethpage, New York 11714
06-546	U S D C District of Delaware (Wilmington)	Cablevision of Brookhaven, Inc	Delaware	1111 Stewart Avenue Bethpage, New York 11714
06-546	U S D C District of Delaware (Wilmington)	Cablevision of Connecticut Corporation	Delaware	28 Cross Street Norwalk, Connecticut 06851
06-546	U S D C District of Delaware (Wilmington)	Cablevision of Hudson County, Inc.	Delaware	360 First Street Hoboken, New Jersey 07030
06-546	U S D C District of Delaware (Wilmington)	Cablevision of Litchfield, Inc.	Delaware	622 Torrington Road Litchfield, Connecticut 06759
06-546	U S D C District of Delaware (Wilmington)	Cablevision of Monmouth, Inc.	Delaware	1501 Eighteenth Avenue Belmar, New Jersey 07719
06-546	U S D C District of Delaware (Wilmington)	Cablevision of New Jersey, Inc.	Delaware	5 Legion Drive Cresskill, New Jersey 07626
06-546	U S D C District of Delaware (Wilmington)	Cablevision of Oakland, LLC	Delaware	80 State Street Albany, New York 12207
06-546	U S D C District of Delaware (Wilmington)	Cablevision of Rockland/Ramapo, LLC	Delaware	80 State Street Albany, New York 12207
06-546	U S D C District of Delaware (Wilmington)	Charter Communications, Inc.	Delaware	12405 Powerscourt Drive St. Louis, Missouri 63131
06-546	U S D C District of Delaware (Wilmington)	Charter Communications Holding Company, LLC	Delaware	12405 Powerscourt Drive St. Louis, Missouri 63131

<i>Defendants in Actions filed by RAKTL</i>				
<i>Civil Action No</i>	<i>District Court</i>	<i>Defendant</i>	<i>Defendant's State of Incorporation</i>	<i>Defendant's Principal Place of Business</i>
06-546	U S D C District of Delaware (Wilmington)	Charter Communications Operating, LLC	Delaware	12405 Powerscourt Drive St. Louis, Missouri 63131
06-546	U S D C District of Delaware (Wilmington)	Charter Communications Entertainment I LLC.	Delaware	12405 Powerscourt Drive St. Louis, Missouri 63131
06-546	U S D C District of Delaware (Wilmington)	Qwest Communications International, Inc.	Delaware	1801 California Street Denver, Colorado 80202
06-546	U S D C District of Delaware (Wilmington)	Qwest Wireless, LLC	Delaware	1801 California Street Denver, Colorado 80202
06-546	U S D C District of Delaware (Wilmington)	Qwest Communications Corporation	Delaware	1801 California Street Denver, Colorado 80202
06-546	U S D C District of Delaware (Wilmington)	Qwest LD Corp.	Delaware	1801 California Street Denver, Colorado 80202
06-546	U S D C District of Delaware (Wilmington)	Qwest Broadband Services, Inc.	Delaware	1801 California Street Denver, Colorado 80202
06-546	U S D C District of Delaware (Wilmington)	Qwest Interprise America, Inc.	Colorado	1801 California Street Denver, Colorado 80202
06-547	U S D C District of Delaware (Wilmington)	American International Group, Inc.	Delaware	70 Pine Street New York, New York 10270
06-547	U S D C District of Delaware (Wilmington)	AIG Reitrement Services, Inc.	Delaware	One SunAmerica Center Los Angeles, CA 90067
06-547	U S D C District of Delaware (Wilmington)	21st Century Insurance Group	Delaware	6301 Owensmouth Avenue Woodland Hills, CA 91367
06-547	U S D C District of Delaware (Wilmington)	21st Century Insurance Company	California	6301 Owensmouth Avenue Woodland Hills, CA 91367
06-547	U S D C District of Delaware (Wilmington)	21st Century Casualty Company	California	One SunAmerica Center Los Angeles, CA 90067
06-547	U S D C District of Delaware (Wilmington)	AIG Marketing Inc	Delaware	One AIG Center Wilmington, DE 19803
06-547	U S D C District of Delaware (Wilmington)	AIG SunAmerica Asset Management Corp.	Delaware	733 Third Avenue New York, NY 10017
06-547	U S D C District of Delaware (Wilmington)	AIG Annuity Insurance Company	Texas	2929 Allen Parkway Houston, TX 77019
06-547	U S D C District of Delaware (Wilmington)	AIG Federal Savings Bank	NA	704 King Street Wilmington, DE 19801

<i>Defendants in Actions filed by RAKTL</i>				
<i>Civil Action No.</i>	<i>District Court</i>	<i>Defendant</i>	<i>Defendant's State of Incorporation</i>	<i>Defendant's Principal Place of Business</i>
06-547	U S D C District of Delaware (Wilmington)	The United States Life Insurance Company in The City of New York	New York	830 Third Avenue New York, NY 10022
06-547	U S D C District of Delaware (Wilmington)	AIG Life Insurance Company	Delaware	One ALICO Plaza Wilmington, DE 19899
06-547	U S D C District of Delaware (Wilmington)	American General Assurance Company	Illinois	100 Woodfield Road Schaumburg, Illinois 60173
06-547	U S D C District of Delaware (Wilmington)	American General Indemnity Company	Illinois	100 Woodfield Road Schaumburg, Illinois 60173
06-547	U S D C District of Delaware (Wilmington)	American General Life and Accident Insurance Company	Tennessee	American General Center -- MC 338N Nashville, TN 37250
06-547	U S D C District of Delaware (Wilmington)	American General Life Insurance Company	Texas	2727-A Allen Parkway Houston, TX 77019
06-547	U S D C District of Delaware (Wilmington)	The Variable Annuity Life Insurance Company	Texas	2929 Allen Parkway Houston, TX 77019
06-547	U S D C District of Delaware (Wilmington)	VALIC Financial Advisors, Inc.	Texas	2929 Allen Parkway Houston, TX 77019
06-547	U S D C District of Delaware (Wilmington)	VALIC Retirement Services Company	Texas	2929 Allen Parkway Houston, TX 77019
06-547	U S D C District of Delaware (Wilmington)	National City Corporation	Delaware	1900 East Ninth Street Cleavland, OH 44114
06-547	U S D C District of Delaware (Wilmington)	National City Bank	NA	1900 East Ninth Street Cleavland, OH 44114
06-547	U S D C District of Delaware (Wilmington)	National City Bank of Indiana	NA	One Merchants Plaza Indianapolis, IN 46204
06-547	U S D C District of Delaware (Wilmington)	Wilmington Trust Company	Delaware	1100 North Market Street Wilmington, DE 19890
06-547	U S D C District of Delaware (Wilmington)	Wilmington Brokerage Services Company	Delaware	1100 North Market Street Wilmington, DE 19890
06-547	U S D C District of Delaware (Wilmington)	Aquila Inc.	Delaware	20 West Ninth Street Kansas City, MO 64105
06-547	U S D C District of Delaware (Wilmington)	DHL Holdings (USA) Inc	Delaware	1200 South Pine Island Road Plantation, FL 33324
06-547	U S D C District of Delaware (Wilmington)	DHL Express (USA) Inc.	Delaware	1200 South Pine Island Road Plantation, FL 33324



<i>Defendants in Actions filed by RAKTL</i>				
<i>Civil Action No.</i>	<i>District Court</i>	<i>Defendant</i>	<i>Defendant's State of Incorporation</i>	<i>Defendant's Principal Place of Business</i>
06-547	U S D C District of Delaware (Wilmington)	Sky Courier, Inc.	Delaware	21240 Ridgetop Circle Sterling, VI 20166
06-547	U S D C District of Delaware (Wilmington)	CIGNA Corporation	Delaware	Two Liberty Place Philadelphia, PA 19192
06-547	U S D C District of Delaware (Wilmington)	CIGNA Health Corporation	Delaware	900 Cottage Grove Road Bloomfield, CN 06002
06-547	U S D C District of Delaware (Wilmington)	CIGNA Healthcare of Delaware, Inc	Delaware	590 Naamans Road Claymont, DE 19703
06-547	U S D C District of Delaware (Wilmington)	Tel-Drug, Inc.	South Dakota	4901 North Fourth Avenue Sioux Falls, SD 57104
06-547	U S D C District of Delaware (Wilmington)	Tel-Drug of Pennsylvania, LLC	Pennsylvania	206 Welsh Road Horsham, PA 19044

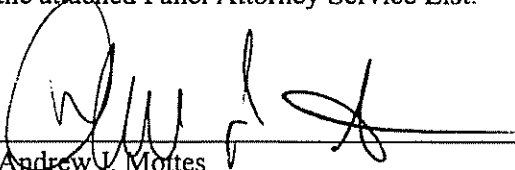
BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE KATZ INTERACTIVE CALL  
PROCESSING PATENT LITIGATION

MDL Docket No. 1816

**CERTIFICATE OF SERVICE**

Pursuant to Rule 5.2(a) of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, I hereby certify that on this date I caused a copy of the Response Of TD Banknorth, Inc. In Opposition To The Motion For Transfer And Consolidation Of Katz Technology Licensing Patent Litigation Pursuant To 28 U.S.C. § 1407, together with the accompanying memorandum of law, exhibits, and certificate of service, to be served by Federal Express on the persons and entities listed on the attached Panel Attorney Service List.

  
Andrew J. Mottes

Dated: November 6, 2006

**Judicial Panel on Multidistrict Litigation - Panel Attorney Service List  
for  
MDL 1816 - In re Katz Interactive Call Processing Patent Litigation**

**\*\*\* Report Key and Title Page \*\*\***

Please Note: This report is in alphabetical order by the last name of the attorney. A party may not be represented by more than one attorney. See Panel rule 5.2(c).

**Party Representation Key**

- \* Signifies that an appearance was made on behalf of the party by the representing attorney.
  - # Specified party was dismissed in some, but not all, of the actions in which it was named as a party.
- All counsel and parties no longer active in this litigation have been suppressed.

**This Report is Based on the Following Data Filters**

Docket: 1816 - Katz Interactive Call Processing  
For Open Cases

**Judicial Panel on Multidistrict Litigation - Panel Attorney Service List**

Page 1

Docket: 1816 - In re Katz Interactive Call Processing Patent Litigation

Status: Pending on / /

Transferee District: Judge:

Printed on 10/30/2006

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Note: Please refer to the report title page for complete report scope and key.

(Panel Attorney Service List for MDL 1,816 Continued)

Page 2

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Retirement Services, Inc.\*; AIG SunAmerica Asset Management Corp.\*; American General Assurance  
Co.\*; American General Indemnity Co.\*; American General Life & Accident Insurance Co.\*; American  
General Life Insurance Co.\*; American International Group, Inc.\*; Cigna Corp.\*; Cigna Health Corp.\*;  
Cigna Healthcare of Delaware, Inc.\*; Tel-Drug of Pennsylvania, LLC\*; Tel-Drug, Inc.\*; United States  
Life Insurance Co. in the City of New York\*; VALIC Financial Advisors, Inc.\*; VALIC Retirement  
Services Co.\*; Variable Annuity Life Insurance Co.\*

Note: Please refer to the report title page for complete report scope and key.

(Panel Attorney Service List for MDL 1,816 Continued)

Page 3

ATTORNEY - FIRM	REPRESENTED PARTY(S)
Friedland, David K. Lotus & Friedland, PA 355 Alhambra Circle Suite 1100 Coral Gables, FL 33134	=> Phone: (305) 448-7089 Fax: (305) 446-6191 Petmed Express, Inc. dba 1-800-Petmeds*
Frost National Bank, N.A., 100 West Houston Street San Antonio, TX 78205	=> Frost National Bank, NA
GMAC Mortgage Corp., 100 Witmer Road Horsham, PA 19044	=> GMAC Mortgage Corp.
General Electric Capital, 280 Long Ridge Road Stamford, CT 06927	=> General Electric Capital Corp
Giant Food, Inc., 6400 Sheriff Road Landover, MD 20785	=> Giant Food, Inc
Harrel, Alan David Atchley, Russell, Waldrop & Hlavinka 1710 Moores Lane P O Box 5517 Texarkana, TX 75505-5517	=> Phone: (903) 792-8246 Fax: (903) 792-5801 Wal-Mart Stores, Inc.
Hawkins, III, Holmes J King & Spalding 1180 Peachtree Street Atlanta, GA 30309-3521	=> Phone: (404) 572-4600 Fax: (404) 572-5134 Healthy Options, Inc. dba Postal Prescription Services*; Kroger Co. (The)*; Kroger Texas, L.P.*
Horwitz, Richard L. Potter Anderson & Corroon, LLP Hercules Plaza, 6th Floor 1313 North Market Street P.O. Box 951 Wilmington, DE 19899-0951	=> Phone: (302) 984-6000 DHL Express (USA), Inc.; DHL Holdings (USA), Inc.; Sky Courier, Inc.
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Note: Please refer to the report title page for complete report scope and key.

(Panel Attorney Service List for MDL 1,816 Continued)

Page 4

**ATTORNEY - FIRM**

**REPRESENTED PARTY(S)**

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Note: Please refer to the report title page for complete report scope and key.

(Panel Attorney Service List for MDL 1816 Continued)

Page 5

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Note: Please refer to the report title page for complete report scope and key.



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